No._____

IN THE
Supreme Court of the United States

_____

SOLOMON STRATTON
Petitioner

v.

MECKLENBURG COUNTY DEPARTMENT
OF SOCIAL SERVICES, ET AL.
Respondent

_____

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the Fourth Circuit

_____

PETITION FOR A WRIT OF CERTIORARI

_____

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November 25, 2013

QUESTION PRESENTED

How does an agency mandated by statue to *protect* abused and neglected children/adults be routinely allowed State immunity to *perpetrate* Constitutional violations?

When does the State lose the Compelling Interest designation as criteria for intervention into the family since statistics prove the high level of Foster Care abuse compared with general population?

FIRST AMENDMENT RIGHTS:

1) Petitioner's right to privacy
2) Petitioner's right to freely associate with their family
3) Petitioner's right to access to the courts

FOURTH AMENDMENT RIGHTS:

1) Petitioner's right to liberty, right to be free from unreasonable searches /seizures
2) Petitioner's right to right to privacy

SIXTH AMENDMENT RIGHTS:

1) Petitioner's right to speedy trial
2) Petitioner's right to trial by jury
3) Petitioner's right to be informed of the nature and cause of accusations against hm
4) Petitioner's right to confront witnesses against him
5) Petitioner's right to compel witnesses in his favor
6) Petitioner's right to counsel

EIGHTH AMENDMENT RIGHTS:

1) Petitioner's right to be free from curel and unusual punishment

Thirteenth Amendment Rights

1) Petitioner's right to be free from slavery and involuntary servitude

Fourteenth Amendment Rights:

1) Petitioner's right to substantive due process
2) Petitioner's right to procedural due process
3) Petitioner's right to equal protection

STATEMENT OF THE CASE

This civil action was filed Pro se originally with two Plaintiffs in March, 2010, amended September, 2010 and included my late father, Jack Stratton. Petitioner is the sole Plaintiff as my father suffered a fatal heart attack just days prior to deadline for informal brief submission to the 4th Circuit Court of Appeals, ("Circuit") After an extension of time was granted and Informal Brief submitted and Circuit assigned Petitioner's Complaint heightened consideration by:

> Requested Formal Briefs
> Sua Sponte commissioned expert litigator, arbitrator, Attorney
> Peter B. Rutledge ("Rutledge"), (Exhibit A) practicing internationally and before this Court to assist the court in deciding the relevancy of Rooker Feldman doctrine as it pertains to instant Complaint.

> **"**Regardless of the motivating force behind MCDSS's actions…. ***the alleged deprivations of process and subsequent splintering of Stratton family are the sort for which a federal cause of action unquestionably exists in this country and in this Circuit.***" (emphasis added)Amicus Curiae Reply Brief (Rb) 23 @ 2 by Attorney Peter B. Rutledge,("Rutledge") expert litigator, arbitrator, practicing internationally and before this Court.(Exhibit B) Biographical Information of Peter B. Rutledge.

Circuit chosen expert delivered dozens of pages of legal doctrine and federal case citations, including US Supreme Court Cases, Exxon Mobile Corp. v Saudi Basic Indus. Corp, Lance v. Dennis and Santosky v. Kramer in support of Stratton with *expert* Conclusion in Rb @ 27,28:

> "Defendants urge this Court to exercise "practicality" and "sense common" and to simply make Mr. Stratton go away. Defendants' Br. At 49. But Mr. Stratton alleges government conduct causing constitutional harm to him and his family. *Evidence in the record**supports his claims. See JA 195-97. "…..***But Stratton has met his burdens under the <u>Rooker-Felman doctrine</u>, <u>substantiality</u>, and Rule 12(b)(6), and this Court <u>should not</u> dismiss his Complaint." (emphasis added)** ("RB") pg.22 @1:

> "Stratton's Amended Complaint articulates plausible, specific facts that, when taken as true, state a claim for relief." …key sections do allege actions by MCDSS and its agents that would ***<u>unquestionably</u>*** violate procedural "Due Process and would afford relief."Because these allegations are ***<u>more than sufficient</u>*** to clear the 12(b)(6) bar, the Amended Complaint should survive this Court's review." (emphasis added)

Despite expertise to the contrary 4th Circuit Court of Appeals ("Circuit") Opinion, 3@1:

> *"…we are satisfied to affirm the dismissal by the district court, relying on the Rooker-Feldman and substantiality doctrines."*

Reasonable persons cannot justify the huge disparity between Opini*on* and Rutledge briefs. That huge disparity in and of itself is cause for this Court to question the validity of due process when it comes to an alleged "state case." It's been over a decade since this Court reviewed state issue involving DHHS entities. With recent orders against North Carolina Department of Health and Human Services (NCDHHS), specifically 3:11-CV-273-BO, US DOJ multiple filings against state DHHS nationwide, specifically NCDHHS 5:12-cv-557 Petitioner request another look at the states brandishing Rooker-Feldman as a lethal weapon against families caught up in the drag net of state run operations where you grab an order, any way you can get it-- and you got it made in Federal Court. Petitioner will gladly serve as exhibit 101-Poster child.

Several circuits, including the 4th in Jordan by Jordan v. Jackson, 15F.3d 333, 340 (4th Cir. 1994) (finding that allegations that county improperly seized plaintiffs' child stated a claim for relief). They have held ("The state's removal of a child from his parents indisputably…triggers the procedural protections of the Fourteenth Amendment.") See Jordan, 15 F.3d @ 342. Again in Washington v. Wilmore the 4th Circuit affirmed the mere presence of a trial or of state court action does not automatically bar Due Process claims against government officials. Even when that defendant had been sentenced and convicted in a *state court.* These other Circuit rulings begs the question , is the disparity based on *who* is on the defendant list on this "state" claim.

In Opinon and Circuit Oral Arguments, Justice King railed against the idea of Petitioner darkening the door of a federal court as it was a novel concept and chanted "Federalism" from the get-go. When mocking the idea of Petitioner meeting the substantiality bar King states, Opinion 28 @1:

> "...the amicus emphasizes the Complaint's allegation that "the post-deprivation hearings required by [North Carolina law'] do not exist in Mecklenburg County. They have been eliminated through the extrinsic fraud scheme set forth [in the Complaint]."Complaint 161. The amicus also argues that, as part of the conspiracy described in the Complaint, the paperwork utilized by the County DSS and the state courts deceives parents into waiving their due process protections, and "[t]he Stratton parents and children have been denied all pre-deprivation and post-deprivation due process." Id. 171-75, 301. Thus, even the amicus counsel is constrained to rely on the bizarre conspiracy allegations to seek a viable contention.….
> And any such claim utterly fails to pass muster under the substantiality doctrine. "

This passage is a total misrepresentation and the complete opposite of Rutledge documented statements throughout Brief and Reply Brief. Specifically Rb 23 @2:

> "Stratton has claimed numerous violations of his and his family's procedural Due Process rights, and ***these claims do not center on any of the conspiracy theories that Defendants so eagerly cite".*** (emphasis added)

Further, Rutledge bold caption in Rb 16@2 is titled:

> **"Stratton alleges substantial procedural Due Process claims that do not depend on the truth of his conspiracy theory.** (emphasis original)

Further, Rb 18 @2:

> "Stratton does not seek damages on the basis of Defendants' role in a global conspiracy. Rather, he seeks damages for Mecklenburg County and its agents' alleged failure to follow the Fourteenth Amendment's requirement of fundamentally fair procedures,…"
>
> Rutledge concludes this section Rb 20@1.
>
> "Thus, Defendants have not satisfied the "stringent prerequisites" this Circuit requires for a finding of insubstantiality. Crosby, 816 F.2d at 163".,

The documents Rutledge speaks of implicating Due Process claims are in the record. There is no prerequisite to believe in a conspiracy to view them. Thus as to the issue of substantiality (Exhibit C, Mecklenburg County Juvenile "Summons") used on Petitioner violating Due Process) and (Exhibit D, Mecklenburg County new, changed Summons) inserting notice of the mandated 7B-506 non-secure hearing absent from Exhibit C Defendants' Martha Curran and MCDSS change after Petitioner's 2010 Complaint) now before this Court for procedural and substantive Due Process violations. Rutledge admonish to Defendants could well be taken by the Circuit in Rb 24@1:

> "Defendants' attempts to mock Stratton's Amended Complaint or to insinuate that Stratton must prove every paragraph within it to survive 12(b)(6) review are misguided and incorrect…..The law requires only that specific facts be pled so that some claims for relief can survive. ***Stratton easily clears this bar".*** (emphasis added)

Exhibit C clearly reads @1

> "YOU ARE HEREBY SUMMONED TO APPEAR in Juvenile Court in the Criminal Courts Building,……..***for a hearing to consider the appointment of counsel for the parent(s) (in abuse, neglect or dependency proceedings) and the child and to set a date for hearing on the petition served with this summons."***

Here in the Exhibit C "summons" Defendants used on Petitioner, Not only is there no notice of the statutorily required non-secure hearing that should have taken place ***at that time, No 7-B 506 hearing*** took place—just as the fraud summons promised. Consequently, I was summoned to a hearing to appoint counsel and set a date for a future hearing—Not to the statutorily mandated non-secure hearing, thus summons did not comport to NCGS 7B-406. The fraud scheme is spelled out in JA @115-118.

Audio Tape of the February 2, 2001 hearing prove the hearing conducted was indeed not the mandated 7B-506 non-secure hearing, Instead there was appointment of counsel and date set for hearing on the petition—but not the mandated non-secure hearing where witnesses could have been presented and the merits of the petition are proven or the children, i.e. Petitioner most optimal opportunity to be returned home is on the line. Respondents attempt to feign jurisdiction over Petitioner on 12/22/2000 is understandable since otherwise they are on the hook for illegal seizure, false imprisonment and numerous Constitutional violations before there were any court orders issued,thus negating Rooker-Feldman bar.

There was no opportunity for Petitioner, my parents to contest the non-secure order or to present witnesses, such as neighbors and law enforcement officer, Jeanette Seagle—*at this juncture.* Opinion throughout asserts multiple hearings were conducted and they were given ample opportunity for redress. Due Process dictates being given process *at the right time* and in a meaningful way. The time for Due Process was in the beginning, *before* (pre-deprivation) Petitioner was seized or at least immediately after (post-deprivation) at the 7-day non-secure hearing that was denied Petitioner through MCDSS, et al fraud scheme, triggered by use of fraud Juvenile "Summons".

No matter how many alleged trials were conducted *later*, does not remedy lack of Due Process in the beginning or at any other stage. Now that Defendants MCDSS, Martha Curran, have inserted into the Summons the proper due process notice of a non-secure hearing and that, at least on paper, they state they will now, after Petitioner's Complaint, conduct the statutorily mandated non-secure hearing, avails this Petitioner nothing except a part of proof of the substantiality of claim. So any talk of this Petitioner having had full and fair opportunity in State or Federal Court is indeed a fairy tale and a more bizarre assertion than Defendants, Justice King allege of Amended Complaint.

If Defendants weren't so obsessed with the conspiracy theories of a *former deceased* Plaintiff, and his alleged full and fair opportunities recited and repeated by Circuit, maybe they could address the claims of the living, breathing instant Petitioner. Opinion recite state and federal actions of *former*, *deceased* Plaintiff. Those alleged full and fair opportunities does not apply to this sole Petitioner. The thought of this Petitioner having any "representation" by a guardian et lietm at time of MCDSS seizure at 11 years of age is addressed @ footnote.

Justice Gregory concurred on dismissal but on different grounds in Opinion 38 @ 1:

> "Because I believe the due process claim survives both the insubstantiality bar and the Rooker-Feldman bar, I next consider whether the due process claim fails to state a claim". Opinion 41@1: "A review of the complaint indicates that Solomon has sufficiently pled the existence and deprivation of a liberty interest, satisfying the first prong to state a due process claim". Opinion 42@2: "Yet, the complaint fails to satisfy the second element because it is clear that the state court provided Stratton with notice and adequate hearings ***prior to the termination of the familial relations."*** (emphasis added). Opinion 44 @ 1:"….it appears ***that at some later proceedings,*** though they adduced testimony in the form of affidavits of other witnesses…"(emphasis added)

Guardian et lietm, Defendants Bret Loftis, non-profit organization Council for Children's Rights and others are a part of the MCDSS fraud scheme, as they used the fraud Summons in exhibit C, deceptively denying Petitioner procedural and substantive Due Process at what was supposed to be a non-secure hearing with opportunity to present witnesses as shown in the new changed Mecklenburg County Juvenile Summons, Exhibit D. So any assertions this Petitioner was represented by guardian et lietm are ridiculous

A common thread running throughout Opinion is the assumption that *any due process at any time negates a claim of procedural due process violation*. All notices and hearings ***leading up to and prior to the termination of parental rights does not offset the lack of notice and Due Process in the beginning.*** The requirements, burdens and level of proof shift at different stages of Juvenile Proceeding. Therefore what is Due Process at one stage is not Due Process at another, resulting in irreparable harm if at *any* stage Due Process is denied, *especially in the beginning when the burden of proof is on the state-not parents-- for clear*/convincing evidence.

At Circuit Oral Arguments Justice Gregory questioned why witnesses such as law enforcement Jeanette Seagle testimony was not presented in the beginning. Defendant CFCR Attorney, Robert Harrington didn't know. The answer is in the Record and included in this Petition as Exhibit C, fraudulent Mecklenburg County Juvenile Summons deceptively states: "*hearing to consider the appointment of counsel and* to *set a date* for hearing. *Changed* (Mecklenburg County Summons, Exhibit D) proves the fraudulent former Juvenile Summons, Exhibit C was no accident, but a premeditated plan to deny due process constitutional rights in the beginning where witnesses like Jeanette Seagle could have been presented in *the beginning* but was denied Petitioner through MCDSS, et al extrinsic fraud scheme.

Circuit Oral Argument Admission-No State Court Jurisdiction

Circuit panel Justice, Gregory opening question was to establish authority or power to act by Respondents, MCDSS, et al in his opening questions to MCDSS attorney, Robert S. Adden, ("Adden") in Oral Arguments. Adden under intense questioning by Justice Gregory confirm MCDSS,et al went outside of jurisdiction to seize Petitioner. Oral Argument audio @39.30. After several stabs at obfuscation and evasion resembling a crook & chase routine, Adden finally fumbled and stumbled into admission that Petitioner was outside of Mecklenburg County Court jurisdiction when seized. Ball game should have long been over. No court has ever had authority to act. This simple fact as been intentionally buried for years by Adden and company and now attempted in the 44 page Circuit Opinion.

How does the not noticed, not summoned, not present Petitioner, Solomon Stratton get named as a Party/Respondent on January 26, 2001 Juvenile Order stemming from 12/22/00 hearing on Interference Petition.

Opinion, 10 @1: "A summons was promptly issued by the state district court directing ***Joan Stratton*** to appear the following day, December 22, 2000, in Charlotte, where a hearing was conducted by defendant Cayer (then a North Carolina judge) on the petition…On January 26, 2001, the state court entered an order (the "Juvenile Order")"(emphasis added) Circuit correctly identify Joan Stratton (grandmother) as the only Respondent summoned and present at 12/22/00 hearing. Inserting Petitioner and siblings names does not confer jurisdiction----only being summoned and served does as in any court action.

January 26, 2001 Juvenile Order Respondent list showcase MCDSS paper fraud scheme hiding in plain sight. On this January 26, 2001 Order, I was "drafted in" as a Party/Respondent although I nor parents were ever summoned or present at the 12/22/00 hearing from which the 1/26/00 Order stems. No statute No Where allows removal of sole summoned party/respondent (Joan Stratton), replace with10 non-parties that were never summoned/served/present onto an Order just because that is "the matter" discussed in the 12/22/00 hearing with only Respondent /Party Joan Stratton summoned and present. Rooker-Feldman bar clearly dropped before MCDSS named me on January 30, 2001 petition, seized me from the privacy of my home in Gaston County,(27A jurisdiction) transported me into Mecklenburg County(26th jurisdiction district) away from care of custody of my parents, subjected me to invasive full body cavity exams without order of any kind, Further, (Exhibit D), Solomon Stratton Hospital Physical exam, document "gross normal exam" supplement Jeanette Seagle's affidavit as proof of no exigent circumstances.*This jurisdiction fraud scheme is laid out with specificity in JA 204-210.

What examining court would honor an alleged "order" as an order that slaps on additional parties without said parties ever have been summoned/served? North Carolina's own Supreme Court case law highlight this absurdity in Card v Finch:

> ***"It is axiomatic, at least in American jurisprudence, that a judgment entered against a citizen affecting his vested rights in an action or proceeding to which he is not a party is absolutely void and may be treated as a nullity whenever it is brought to the attention of the Court. We think that no case can be found in the courts of this country, State or Federal, in which this principal is questioned."*** Card v Finch,142 N.C. 140, 144, 54 S.E. 1009 (1906). (emphasis added)

Footnote*Juvenile cases are governed by the NC Rules of Civil Procedure. Rule 4 states that "upon the filing of the complaint, summons shall be issued forthwith, and in any event within five days." The summons "shall be directed to the defendant …." Roshelli v. Sperry, 63 N.C. App.509, 305 S.E.2d 218 (1983) Failure to cause a summons to issue within five days results in a discontinuance of the action against Defendant, Id. At 219.. A summons cannot relate back to an action in which the Defendant was not a party, Id at 219. In Re Arends, 88N.C. App. 550, 364 S.E.2d 169 (1988) ("The juvenile court acquired jurisdiction over the subject matter when the summons was served on a parent").

Certainly any reasonable person would find government officials and agents engaged in a scheme wherein Petitioner was robbed of childhood and the upbringing of his natural parents, held in state peonage for over 7 years thus provoking denial of right to life and liberty to be ***Conscience Shocking.***

Rutledge independent examination of the Record produced the same conclusion that Petitioner was not a party to 12/21/00 Juvenile Summons and resulting 1/26/01 Order. Rb@8 state:

> ***" Here, neither Solomon Stratton nor his parents were parties to several key state court decisions that helped to split the Stratton family and colored the actions of MCDSS agents. Specifically, only Joan Stratton, Solomon's grandmother, was party to the December 21, 2000 "Juvenile Summons" order that entered key findings of fact later used to justify MCDSS actions. JA 204, 206-10***. The Stratton parents (and Solomon) also do not appear to have been parties to any proceeding authorizing the initial January 30, 2001 seizure. See JA 212. ….Under Lance, Rooker-Feldman does not forbid Stratton from seeking federal review of these actions."

Rb24@2: "Furthermore, facts in

> the record do indeed support Stratton's claims, contrary to Defendants' assertions. Stratton offers the testimony of Officer Jeanette Seagle, who implies ill will on the part of MCDSS agents, JA 195-97, and questions the veracity of the MCDSS agent testimony that led to the removal of the Stratton children. Compare JA 196-97, with JA 200."

Excerpt from Exhibit, Jeanette Seagle Affidavit (Exhibit E):

> "That in my years in law enforcement, as previously stated, I have had the opportunity to meet many children who are abused, neglected, and dependent and these children did not seem to me to fit any of these categories, they appeared properly attired, living in an adequate home, with a parent who loved them very much, and whom they loved very much. All appeared healthy and happy with their mother…That in my opinion as a law enforcement officer of 29 years, working with juveniles for nine of those years, and working with DSS the entire time, and as a guardian ad litem for sixteen years, I felt, at the time the children were taken by DSS, that based upon my observations of the situation, my conversations with both the DSS workers and Mrs. Stratton, and my observations of the children, that there was no need for removal of the children.."

REASONS FOR GRANTING THE PETITION

The decision of the 4th Circuit conflicts with this Court ruling in Lance v Dennis 546 U.S. @ 464, 126, S.Ct. @1201/where it ruled the Rooker-Felman doctrine does not bar a party's federal suit when that party was not involved in the original lawsuit. The Circuit decision also conflicts with Exxon Mobil Corp. v Saudi Basic Indus. Corp., 544 U.S. 280,125 S. Ct. 1517 @ n.2 holding that request for money damages for redress for wrongs of state employees and not the overturn of a state-court judgment and does not invoke bar to Rooker-Feldman.. Additionally in Santosky, 455 U.S @ 753-54 this Court held that when the State moves to destroy familial bonds, it must provide parents with fundamentally fair procedures. Whether that applies to children is still an open question.

The Circuit decision is diametrically opposed to the nearly 80 pages of expertise offered from the Amicus Curiae, Peter B. Rutledge, whom they themselves commissioned for the court's guidance.

The Circuit decision also conflicts with surrounding circuits and Circuit own finding that the state's removal of a child from his parents indisputably triggers the procedural protections of the Fourteenth Amendment in Jordan v. Jackson,15 F.3d @342 (1994). Additionally in Washington v. Wilmore this Circuit held the district court could hear Due Process claims relating to state agent's inappropriate conduct and that Rooker-Feldman didn't apply.

Although other circuits, 2nd and 9th have ruled that children possess 14th amendment liberty interests, this Court nor the Circuit has ruled on whether the children have reciprocal interests in the companionship and supervision of their parents. This Writ would be a vehicle to resolve the still open question as to children have the same reciprocal liberty interests as parents in the right to fundamentally fair procedures. Of the hundreds of thousands of children are taken from their homes, most will not get to litigate or a chance at redress their grievances.

Submitted this 25th day of November, 2013

_____

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No._____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

SOLOMON STRATTON-PETITIONER

VS.

MECKLENBURG COUNTY DEPARTMENT
OF SOCIAL SERVICES, ET AL—RESPONDENTS

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner ask leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

The Petitioner has previously been granted leave to proceed in forma pauperis in NC Western District Court, Charlotte Division, Charlotte, NC.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

_____

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

_____

Date_____

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

_____---PETITIONER

PROOF OF SERVICE

I, Solomon Stratton, do affirm or declare that on this date, November 25, 2013, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follows:

Michael Gibson, 301 S. McDowell St, Suite 900, Charlotte, NC 28204, Kelly Hughes, 201South Collee St., Charlotte, NC 28244, Robert E Harrington, Sinead Noelle O'Doherty, Adam Doerr, 101 N. Tryon St., Charlotte, NC 28246, Grady Balentine, Jr., P.O.Box 629 Raleigh, NC 27602, Cynthia Van Horne, 301 S. College Street, Charlotte, NC 28202, Charles E. Johnson, 101 N. Tryon Street, Charlotte, NC 28246. Richard Lucey, 1123 S. Church St, Charlotte, NC 28246

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2013

_____

OPINIONS BELOW

The opinion of the United States court of appeals for the 4th Circuit appears at Appendix A To the petition and is unpublished.

JURISDICTION

The 4th Circuit Court of Appeals entered its judgment on May 31, 2013 affirming the District Court dismissal of Complaint.

A timely petition for rehearing was filed June 14, 2012 and denied by Circuit on June 28, 2013.

A timely petition was filed for extension of time to Petition for Writ of Certiorari on September 17, 2013. The US Supreme Court granted extension of time to file Writ of Certiorari to and including November 25, 2013.

The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

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