ORIGINAL

In the
Supreme Court of Ohio

THE STATE, *ex rel.* ARISTIDES JURADO, *et. al.,* Relators, v. OFFICE OF DISCIPLINARY COUNSEL, *et. al.,*. And FRANKLIN COUNTY COURT OF COMMON PLEAS, DOMESTIC RELATIONS DIVISION, JUVENILE BRANCH, *et. al.,* Respondents	Case No. **2014-1225** ORIGINAL ACTION IN MANDAMUS AND PROHIBITION

RELATOR'S MOTION FOR RECONSIDERATION

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SUPREME COURT OF OHIO

RELATOR'S MOTION FOR RECONSIDERATION OF DISMISSAL

Relator Aristides Jurado ("Relator A.J.") respectfully moves this Honorable Court to reconsider the decision to grant Respondents Motions to Dismiss, under Rule 11.2(B)(4) of the Rules of Practice. Here Relator A.J. does not intend to reargue his case. Instead, A.J. asks that (1) New facts and events get considered, (2) Other Standard of Reviews be applied.

This case is of significant importance, as shortcomings of Ohio's Guardian Ad Litem system and Superintendence Rule 48 affect many families in Ohio, but mainly poor and minority families.

A Memorandum in Support has been attached to introduce propositions of law, and statement of facts with new information.

Respectfully submitted,

Relator-Father Pro Se

By: _____

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MEMORANDUM IN SUPPORT OF MOTION

I. FACTS

a. In less than two weeks after Relators filing of this Action, the Juvenile Court scheduled and heard his Motion for Removal of the GAL on 8/1/04. Although not a lot was covered, it was set for the record that the GAL did not have any defense for misleading the court in the past, and for ignoring Pediatricians that had asked to talk to her. The court went into recess, and set a continuance for 8/27/04, due to the GAL's planned vacation.

b. On 8/27/04, the Court did not hold the second part of the hearing and instead set another continuance for the afternoon of 9/24/04.

c. Upon arrival on 9/24, the Judged summoned the parties to Chambers where the proceeding lasted about 2 hours and off-the-record.

d. The Court had decided that the best course of action was to Remove the Guardian Sua Sponte, instead of holding the hearing. The judge then asked "And what are we going to do with your motion?". "Yes, you are going to sign a Withdrawal of Motion"

e. Instead of the Hearing to Remove the GAL, the Court decided to hear a pending Motion to Show Cause that was scheduled for 7/22 but was never properly continued or scheduled. After just a few minutes and over repeated objections of Relator, the Court found him in Contempt and sentenced him with Jail time to be served over the Thanksgiving Holiday.

II. LAW AND ARGUMENT

Controversy Or Issues Of Fact Do Not Get Consideration For A Dismissal

Respondent The Juvenile Court, on their Motion to Dismiss, argued that A.J. claims that he has been prejudiced and harm by the misconduct and racial bias (Discrimination) of the GAL is simply his legal position or opinion that differs from the GAL and the Juvenile Court. However, this court has held that dismissal is only appropriate if "it appears beyond doubt, after presuming the truth of all material factual allegations and making *all reasonable inferences in favor of relator*, that relator is not entitled to the requested extraordinary relief." (Emphasis Added.) *State ex rel. DeBrosse v. Cool* (1999), 87 Ohio St.3d 1, 3,1999-Ohio-239 (citations omitted)

In this case, Relator A.J.'s claims of constitutional and fundamental rights violations should be presumed true. As such, Relator's clear legal right is defined in the U.S. and Ohio Constitutions, which includes Due Process as one of them.

New Factual Events Establish Lack Of Remedy

The lack of an adequate remedy at law is clear when Respondent the Juvenile Court evaded any possible review by Appeal when it held a two-hour long proceeding in Chambers and off-the-record. It is unconscionable that a court of law would address previous constitutional claims by evading the recording of proceedings. Furthermore, the only adequate remedy left for Relator A.J. for his claims arising out of Respondent's failure to address the GAL's misconduct is eliminated by the Court's *sua sponte* removal of the GAL. In such case, Appeal is no longer available to Relator. The violations of Relator's rights become even more

severe when the Court decides to allow the recently-removed former-GAL to return to the case as an Expert Witness for Mother.

Therefore, a Writ of Mandamus to compel the Juvenile Court to address the claims of misconduct and discrimination is the only adequate remedy available to Relator, in order to redress the harm and prejudice caused by the former-GAL. Also a Writ of Prohibition would prevent Respondent the Juvenile Court to allow the former-GAL back in the case as an Expert Witness.

Totality of the Circumstances

It is more and more evident that the Juvenile Court, since the start of Relator's efforts to remove the GAL, has become more and more adversarial, and the more recent actions rise to the level of retaliation. For example, only hours after the Dismissal Decision was issued by this Court, and Respondent deprived Relator of Due Process when it held an impromptu Show Cause hearing that was never scheduled, no continuances had been entered from the original July 22 date, and despite Relator's repeated objections. The impromptu hearing, in which Relator was sentenced to Jail Time to be served over the Thanksgiving Holiday, only lasted a few minutes but not before the 2-hour off the record proceeding in Chambers. The off-the-record proceeding concluded with the court removing the GAL *sua sponte* instead of allowing Relator to complete the hearing that had started 2 months ago, and with the Judge ordering Relator to sign a Withdrawal of Motion form. The court also changed the Temporary Orders in favor of Mother without any hearing at all.

Relator admits that the Contempt finding is an appealable order in which, obviously, appeal is an available remedy at law. The only controversy left is whether considering the totality of the claims and circumstances, appeal is an adequate remedy, for the alleged retaliation as well as the Discrimination claim, both of which are not narrow issues atypical for an appeal.

Exception to Mootness: Capable of Repetition, Yet Evades Review

This court has held that,

> This exception applies only in exceptional circumstances in which the following two factors are both present: (1) the challenged action is too short in its duration to be fully litigated before its cessation or expiration, and (2) there is a reasonable expectation that *the same complaining party will be subject to the same action again.*

(Emphasis Added.) *State ex rel. Calvary v. Upper Arlington* (2000), 89 Ohio St.3d 229, 231, 729 N.E.2d 1182. In the case at hand, more than one of the challenged actions meet the above criteria. For example, if the court reappoints the same Guardian in the future, or if more misconduct is found from the former-GAL as an expert witness, or the numerous deprivations of Relator's right to be heard.

Compliance with Title VI of the Civil Rights Act of 1964

Although Relator is not making a claim under Title VI, it respectfully reminds this Honorable Court that both, the Juvenile Court, and the State Court System being recipients of

Federal funds through multiple programs managed at the state level or by the county Board of Commissioners, they are required to comply with the requirements of the statue and administrative regulations that prohibits unlawful discrimination, and therefore, should properly investigate claims of discrimination based on race, color or national origin.

III. CONCLUSION

For all the new facts and standard of review proposed herein, Relator requests that this Court reconsider its decision to grant Respondent's Motion to Dismiss.

Respectfully submitted,

Relator-Father Pro Se

By: _____

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THE STATE *ex rel.* ARISTIDES JURADO, *et. al.*, Relators, v. OFFICE OF DISCIPLINARY COUNSEL, *et. al.* And FRANKLIN COUNTY COURT OF COMMON PLEAS, DOMESTIC RELATIONS DIVISION, JUVENILE BRANCH, *et. al.*, Respondents.	Case No. **2014-1225** ORIGINAL ACTION IN MANDAMUS AND PROHIBITION

AFFIDAVIT OF RELATOR ARISTIDES JURADO FOR VERIFICATION OF HIS MOTION FOR RECONSIDERATION

STATE OF OHIO
COUNTY OF FRANKLIN, *SS.*

Now comes Aristides Jurado as the Affiant herein and having been duly sworn and cautioned deposes and states that he is the Relator in the foregoing action, that he has reviewed the foregoing motion, and that the facts and allegations stated therein are true to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.

Aristides Jurado

STATE OF OHIO
COUNTY OF FRANKLIN
SWORN to before me and subscribed in my presence this 5th day of October, 2014.

Notary Public / Deputy Clerk

NOTARIAL SEAL STATE OF OHIO

ROGER RILL
Notary Public, State of Ohio
My Commission Expires 03-14-18

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via personal service on this 6th day of October, 2014, upon the following:

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