

In the  
Supreme Court of Ohio

THE STATE, *ex rel.* ARISTIDES JURADO,

Relator,

v.

FRANKLIN COUNTY COURT OF COMMON  
PLEAS, DOMESTIC RELATIONS DIVISION,  
JUVENILE BRANCH, *et. al.*,

Respondents.

Case No.

15-0240

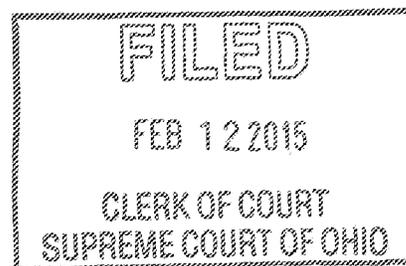
ORIGINAL ACTION IN MANDAMUS AND  
PROHIBITION

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**MOTION FOR EMERGENCY ISSUANCE OF ALTERNATIVE WRIT  
AND STAY OF PROCEEDINGS  
WITH MEMORANDUM AND AFFIDAVIT IN SUPPORT**

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For Relator. *Pro Se.*



**MOTION FOR EMERGENCY ISSUANCE OF ALTERNATIVE WRIT**  
**AND STAY OF PROCEEDINGS**

Relator Aristides Jurado acting Pro Se, respectfully request this Honorable Court for an immediate stay of proceedings in the underlying custody case and expedited consideration of an Alternative Writ of Prohibition to prevent Respondent Franklin County Court of Common Pleas, Domestic Relations Division, Juvenile Branch, *et. al.* (“The Juvenile Court”) from holding a contempt purge hearing pending disposition of this action.

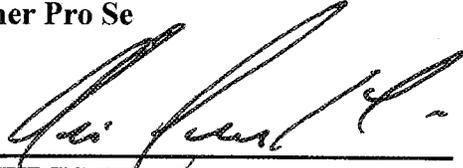
The expedited consideration for temporary and immediate relief is necessary to prevent Relators from being denied fundamental and substantial rights and to avoid irreparable harm to be caused by the looming exercise of judicial power by Respondents that exceeds their jurisdiction and is unauthorized by law. Additionally, the issuance of the alternative writ is to “preserve the existing status of a proceeding, to command the person against who it is issued to show cause to the court why a permanent writ of prohibition should not be ordered.” *State ex rel. Hughes v. Brown* (1972), 31 Ohio St.2d 41, 43, 60 O.O.2d 23, 24, 285 N.E.2d 376, 377 and *State ex rel. Allstate Ins. Co. v. Gaul* (1999), 131 Ohio App.3d 419, 429-34.

The upcoming hearing is scheduled to start on **February 12, 2015 at 9:00am EDT** and will be presided by Respondent Honorable Terri Jamison.

Respectfully submitted,

**Relator-Father Pro Se**

By:

  
\_\_\_\_\_  
ARISTIDES JURADO  
3963 Easton Way  
Columbus, OH 43219

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## MEMORANDUM IN SUPPORT OF MOTION

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### INTRODUCTION

A substantial right is a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

*State ex rel. Bates v. Court of Appeals for the Sixth Appellate Dis.*, 130 Ohio St.3d 326, 2011-Ohio-5456.

### STATEMENT OF FACTS

As stated in the Petition for Extraordinary Writs and Memorandum in Support filed by Relator this case arises out of child-custody proceedings and collateral Contempt proceeding that is being appealed, for which a request for Stay has been denied by both Respondents the Juvenile Court and the Court of Appeals.

### ARGUMENT

#### **Without a Stay, irreparable harm will be done**

If the Juvenile Court proceeds with the purge hearing and enforces the sentence of jail, the Appeal of the Contempt Order becomes moot automatically. After the sentence is served, his lost of liberty, a fundamental constitutional right can no longer be repaired or remedied.

With Contempt comes the possibility Relator's incarceration. The loss of liberty is a harm for which no remedies at law are available.

### **Holding a Purge Hearing Exceeds the Court's Jurisdiction**

The granting of a Motion to Stay under Civ.R. 62(B) is not discretionary based on case law established by this court through many decision over the years. For example, defendant-appellants are entitled to a stay of the judgment as a matter of right. The lone requirement of Civ.R. 62(B) is the giving of an adequate supersedeas bond." *State ex rel. Ocasek v. Riley*, 54 Ohio St. 2d 488, at 490, Supreme Court of Ohio (1978).

### **All Pre-requisites Met for Expedited Alternative Writ**

This Court has held that an expedited alternative writ should only issue, "if after presuming the truth of all material factual allegations in the Complaint, and making all reasonable inferences in Relator's favor, it appears that Relator's claims may have merit". *State ex rel. Rodack v. Betleski* (2004), 104 Ohio St.3d 345.

In the present case, Relators' Petition for Writ of Prohibition and Alternative Writ has merit for all the reasons stated in this Motion, Memorandum in Support, the Original Petition for Writ and its Memorandum in Support.

For example, to be entitled to a Writ of Prohibition, Relators must establish the existence of three elements:

1. that Respondents exercised or are about to exercise judicial power,
2. the exercise of that power is unauthorized by law, and
3. that denying the writ will result in injury for which no other adequate remedy exists in the ordinary course of law. *State ex rel. Reese v. Cuyahoga Count. Board of Elections*, 115 Ohio St.3d 126, 2007-Ohio-4588, 873 N.E.2d 1251, at ¶16.

There should be little doubt that all three elements have already been met.

**CONCLUSION**

The Juvenile Court is about to exercise unauthorized judicial power that will cause irreparable harm to Relator. Respondents have already denied a Motion to Stay, which in turn, is a deprivation of Relator's right to Appeal.

For justice to prevail, Relator ask the Court to act expeditiously on this motion, without awaiting response, as the balance of harms for all the parties in this case and the underlying case favors the immediate issuance of this alternative writ and Emergency Stay of Proceedings.

Respectfully submitted,

**Relator Pro Se**

By:

  
\_\_\_\_\_  
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Columbus, OH 43219

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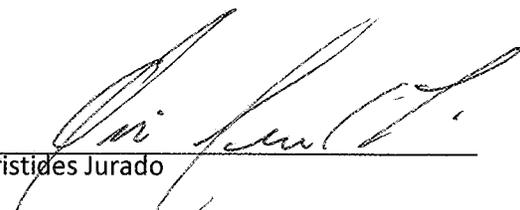
**AFFIDAVIT OF RELATOR ARISTIDES JURADO FOR VERIFICATION  
OF HIS MOTION FOR EMERGENCY ISSUANCE  
OF ALTERNATIVE WRIT AND STAY OF PROCEEDINGS**

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STATE OF OHIO  
COUNTY OF FRANKLIN, SS.

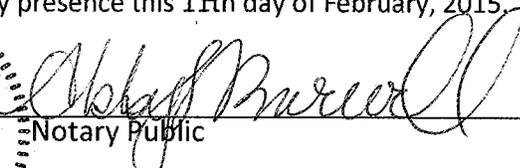
Now comes Aristides Jurado as the Affiant herein and having been duly sworn and cautioned deposes and states that he is the Respondent in the foregoing action, that he has reviewed the foregoing motion, and that the facts and allegations stated therein are true to the best of his knowledge and belief.

**FURTHER AFFIANT SAYETH NAUGHT.**

  
\_\_\_\_\_  
Aristides Jurado

SWORN to before me and subscribed in my presence this 11th day of February, 2015.



  
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Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served via e-mail on this 12<sup>th</sup> day of February, 2015, upon the following:

Douglas W. Eaton  
Court Administrator  
Tenth District Court of Appeals  
373 South High Street - 24th Floor  
Columbus, OH 43215  
Phone: 614-525-3580  
Email: [dweaton@franklincountyohio.gov](mailto:dweaton@franklincountyohio.gov)

Ronald J. O'Brien, Counsel of Record  
Franklin County Prosecuting Attorney  
373 S. High Street, 14th Floor  
Columbus, OH 43215  
(614) 525.3555

Counsel for Respondent  
FRANKLIN COUNTY COURT OF COMMON PLEAS,  
DOMESTIC RELATIONS DIVISION, JUVENILE BRANCH, *et. al.*,

**Relator-Father Pro Se**

By:

  
\_\_\_\_\_  
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