

ORIGINAL

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. 2015-0240

ORIGINAL ACTION IN MANDAMUS AND  
PROHIBITION

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**RELATORS' MEMORANDUM IN RESPONSE  
TO THE JUVENILE COURT RESPONDENT'S MOTION TO DISMISS**

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For Relator. *Pro Se.*

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FILED  
MAR 16 2015  
CLERK OF COURT  
SUPREME COURT OF OHIO

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**RELATORS' MEMORANDUM IN RESPONSE  
TO THE JUVENILE COURT RESPONDENT'S MOTION TO DISMISS**

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Relator Aristides Jurado acting Pro Se, respectfully request this Honorable Court to deny the Motion to Dismiss filed by Respondents Franklin County Common Pleas Court, Division of Domestic Relations and Juvenile Branch, Judge Terri Jamison, for the following reasons:

**PROHIBITION**

For a writ of prohibition, Relator must establish three requirements: (a) That the court is about to exercise judicial or quasi-judicial power, (b) that the exercise of that power is unauthorized by law, and (c) No other adequate remedy exists with the deny of the writ of prohibition.

1. THE COURT IS ABOUT TO EXERCISE JUDICIAL POWER

The first requirement is undisputed. The Court will be exercising judicial power on April 9, 2015 for the hearing of Contempt compliance.

2. THE EXERCISE OF POWER IS UNAUTHORIZED BY LAW

A court or officer having subject matter jurisdiction can still exercise power that is unauthorized by law, especially when Relator is entitled to a stay of the judgment as a matter of right. In *State ex rel. State Fire Marshal v. Curl*, 87 Ohio St. 3d 568, this court held that "Pursuant to [Civ.R. 62], defendants-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. State Fire Marshal v. Curl*, 87 Ohio St. 3d 568, 571. Even when *Curl* did not have the supersedeas bond requirement due to Civ.R. 62(C), upon adequate supersedeas bond, "the evidentiary hearing on the stay and the related depositions are

inappropriate proceedings” *Curl supra*, at 571. Because Relator contends that he met the requirement of the Supersedeas Bond given that the nature of the Contempt proceeding did not involve any financial obligation, any factual assertions by Respondents to the contrary should not be considered. “The court must consider and accept all factual allegations of the complaint as true and afford all reasonable inferences in the nonmoving party’s favor” *State ex rel. Russell v. Thornton*, 111 Ohio St.3d 409, 2006-Ohio-5858. Therefore Relator is entitled to Stay as a matter of right. In *State Fire Marshal*, this court found that relator “is entitled to the requested writs of prohibition and mandamus \* \* \* to prevent Judge Curl from conducting contempt proceedings or attempting to enforce the judgment” *State ex rel. State Fire Marshal v. Curl, supra*. Other than the controversy of the supersedeas bond, the circumstances were similar to the case at hand, in which both the trial court and the court of Appeals denied the relief of a Stay when Relator was entitled to it. In fact, Relator Jurado also included in his Motion for Stay that “if for any reason this Court decides that a Bond is warranted, appellant request for this Court to set the Bond amount as opposed to dismissing this Motion” Appellant’s Emergency Motion To Stay Juvenile Court’s Contempt Finding And Upcoming Purge Hearing Pending Appeal And Motion To Waive Supersedeas, Feb. 11, 2015.

3. THERE IS NO ADEQUATE REMEDY AT LAW IF WRIT IS DENIED

Respondent contends that Appeal is an adequate remedy at law and thus, the Writ of Prohibition should not be granted. However, this action is due to Relator’s denial of the remedy of Appeal if the Stay is not granted.

**MOOTNESS**

Respondent asserts that the February 12, 2015 hearing has already passed. However, respondent is well aware that the hearing was set for a continuance to April 9, 2015, and therefore the relief requested is still not moot.

### CONCLUSION

For all the reasons stated above, Respondent's Motion to Dismiss should be denied

Respectfully submitted,

**Relator Pro Se**

By:

  
\_\_\_\_\_  
ARISTIDES JURADO  
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Columbus, OH 43219

**CERTIFICATE OF SERVICE**

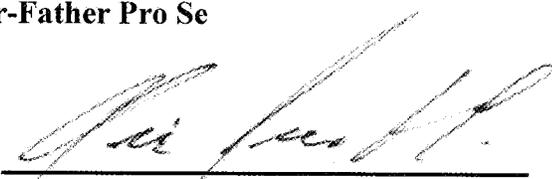
I hereby certify that a true and accurate copy of the foregoing was served via e-mail on this 116<sup>th</sup> day of March, 2015, upon the following:

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

**Relator-Father Pro Se**

**By:**

  
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IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY  
 DIVISION OF DOMESTIC RELATIONS AND JUVENILE

EXHIBIT E

Kathy Hernandez  
 Plaintiff / Petitioner

Case Number 12 JU 014479

Aristides Jurado  
 Defendant / Respondent

Judge Jamisa  
 Magistrate Matthew J

**MOTION FOR CONTINUANCE**

On 2/12, 20 15, the parties requests a continuance of the hearing set for 2/9 & 2/12, 20 15 for the following reason(s).

- 1 ( ) Engaged Counsel (verification attached)(H006)
- 2 ( ) Witness / Party Unavailable (H007)
- 3 ( ) Illness (H008)
- 4 ( ) Vacation (H009)
- 5 ( ) To Obtain Additional Information (H012)
- 6 ( ) To Obtain Counsel (H015)
- 7 (X) Other court unavailable (H010)
- 8 ( ) To Complete Discovery (H013)
- 9 ( ) To Perfect Service (H011)

Date complaint/petition/motion filed all pending Number of previous continuances notions & ongoing trial; include the reasons on the court's finding page

Plaintiff/Petitioner

Defendant/Respondent

[Signature]  
 Attorney for Plaintiff/Petitioner Sup. Ct. No. 6072383

[Signature]  
 Attorney for Defendant/Respondent Sup. Ct. No. 6059079

Prosecuting Attorney/CSEA Sup. Ct. No.

Guardian Ad Litem Sup. Ct. No.

**ENTRY / MAGISTRATE'S ORDER**

- ( ) Decision Prior to Hearing
- ( ) Decision at Time of Hearing

It is therefore ORDERED:

The Court, being fully advised in the premises, and for good cause shown hereby continues the within action, including the order(s) to appear and show cause, if any, to a date and time certain.

April 9, 2015 at 10:00 A.M., 373 South High Street /  
 399 South Front Street, in Courtroom 65, Columbus, Ohio.

( ) The motion for continuance is overruled. (J224)

[Signature]  
 JUDGE / MAGISTRATE

**INSTRUCTIONS TO ASSIGNMENT**

Schedule hearing within \_\_\_\_\_ days.

Schedule hearing on next available date.

Hearing Type Code \_\_\_\_\_