UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION AT SHERMAN

Cause No.: _____

RUSTIN P. WRIGHT, Petitioner, and Defendant-Respondent below,	)	In a removal from the Sixth Judicial District Court of Lamar County, Texas
v.	)	State case number: 73540 ("*In the Interest of A.G.F.W., a Minor Child*")
ASHLEY B. WOMACK, Respondent, and Plaintiff-Petitioner below,	)	Judge William Baird, presiding

Notice of Pre-Emptive Constitutional Challenge to the Unlawful Discrimination of Separate Racial Classes via *Georgia v. Rachel*

Petitioner, Rustin P. Wright, respectfully provides this Honorable Court notice, argument, authority and statement regarding the case of *Georgia v. Rachel*, and also its progeny, as to any consideration of that doctrine line against actions filed to vindicate some of the most basic civil and due process rights known and established among civilized society, by stating and providing:

Basis of Constitutional Challenge

Petitioner's allegation of federal jurisdiction under 28 U.S.C. § 1443 appeared in the original Notice of Petition with Verified Petition for Warrant of Removal, today filed together herewith.

Petitioner reasserts 28 U.S.C. § 1443 as clear and unambiguous lawful authority for this court to take jurisdiction of this case as stated in said original Notice/Petition for Warrant of Removal.

Petitioner asserts that Federal statutes do say what they mean, and do mean what they say. 28 U.S.C. § 1443 (2014) clearly states, in full:

§ 1443. Civil rights cases

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the

United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

The plain meaning of 28 U.S.C. § 1443 was changed by the Supreme Court of the United States in *State of Georgia v. Rachel*, 384 U.S. 780, 86 S. Ct. 1783, 16 L. Ed. 2d 925 (1966).

A fair and full reading of the statute itself gives not even the slightest hint that its availability to all United States citizens is limited as unconstitutionally misconstrued in *Georgia v. Rachel*.

Prior to including 28 U.S.C. § 1443 in Petitioner's Notice of Removal, Petitioner conducted Lexis research into 28 U.S.C. § 1443, including reading apparently pertinent topical annotations and cases cited therein. Petitioner noted various citations referring to the racial discrimination component of 28 U.S.C. § 1443 cases, but it does not occur to Petitioner that violations of his basic civil rights, as against his well established Liberty Interests, are not also plainly actionable under 28 U.S.C. § 1443, simply because there is no racial discrimination component in this case.

Petitioner relied upon numerous decisions of the Supreme Court of the United States which have explicitly and unambiguously classified Petitioner's rights at stake as "basic civil rights." [1] It is inconceivable to Petitioner that there might be a skin color test (the very definition of racism) to exercise 28 U.S.C. § 1443 and protect his "basic civil rights" existing within his well established Liberty Interests. Such a race based litmus test is inconsistent with the color blind

society which is the objective of equal protection of the laws under the Fourteenth Amendment of the United States Constitution.

Either all citizens of the United States of America (*including whites*) have **the same and equal right** to exercise 28 U.S.C. § 1443 and protect their "basic civil rights", or the law fails for a contrary result that creates unequal classes of citizens in the exercise of "basic civil rights." [2] In the latter case, the law is facially unconstitutional in violation of the equal protection clause of the Fourteenth Amendment of the United States Constitution, particularly in light of the color blind nature of civil rights actions, and of the history of the construction of the civil rights statutes and code sections applying, as to ***all*** United States citizens, "the same rights and opportunities that white people take for granted." *University of California Regents v. Bakke*, 438 U.S. 265, 287 (1978) (from the swing vote opinion of Mr. Justice Powell).

Consequently, this court should not decline jurisdiction under *Georgia v. Rachel*, but afford Petitioner the equal protection of 28 U.S.C. § 1443 and retain its inherent jurisdiction over basic federal questions of Liberty Interests, so that his basic civil rights be accorded the same weight as the basic civil rights of all citizens are treated without regard to one's race. To do otherwise is to elevate the basic civil rights in racial equality above the basic civil rights in Liberty Interests.

In the considerable research done by Petitioner, all of the annotations related to a "racial" component of asserting civil rights remedies under 28 U.S.C. § 1443 were merely noted ***in passing*** and otherwise largely ignored as inapplicable to the facts of this case, because there is no racial discrimination component in this case. In the face of the broad and powerful language of the statute itself, and the lack of racial discrimination facts in this case, there is simply no reason to delve into any of the racial discrimination cases, such as *Georgia v. Rachel* and its progeny.

Under these circumstances, no reasonable legal researcher would waste the time reading case annotations about racial discrimination, when no such element is present in the case at bar. In light of the facts of this case, Petitioner has no reasonable basis to expect that 28 U.S.C. § 1443 is not a perfect statutory basis for removal to federal court, and that his rights to equal protection of the law should not be upheld fair and square, simply because his skin color is white.

Petitioner further moves for declaratory relief pursuant to FRCP 57 and 28 U.S.C. § 2201 to establish the right of all litigants to have the State of Texas comply with federal law as well as all state and federal constitutional requirements in relation to basic due process components, such as even having a valid cause of action pending (a matter of law question), before restraining and invidiously prohibiting the undersigned's natural personal freedoms, extorting his money, and more importantly, his freedoms and rights to due process in proper custody regarding his child.

Federal question jurisdiction exists pursuant to 28 U.S.C. § 1331 and § 1367(a), with proper removal under 28 U.S.C. §§ 1443, also 1441(c), and 1446(b), and further and independently, jurisdiction exists vis-à-vis the Federal Declaratory Relief Act codified in 28 U.S.C. § 2201.

Jurisdiction firmly exists under 28 U.S.C. § 1331 wherein the federal Court may entertain the following basic constitutional questions which also implicate the various declaratory relief:

Whether state family courts are limited by Article I, Section 10 of the federal Constitution's prohibition against the any impairment of contractual obligations existing amongst the parties?

Is it a violation of the Fourteenth Amendment to the federal Constitution, and the Federal Code sections which require due process, for a state court to ignore and deny basic matters-of-law in fundamental fairness in either a civil, quasi-criminal, or even criminal conviction action?

Under the Supremacy Clause of the federal Constitution, do state courts have an affirmative duty to comply with relevant federal laws, especially when duly raised over the matters therein?

Conclusion

The federal questions set forth above are not all of the grounds upon which Petitioner challenges the constitutionality of the statutes and processes under attack in this case; they are presented as a mere representative example of the fact that Petitioner has raised substantial federal questions to support federal court jurisdiction under 28 U.S.C. §§ 1331, 1441(c), and 1443, and, independently, federal court declaratory relief under FRCP 57 and 28 U.S.C. § 2201.

In view of the declaratory relief requested to address the substantial constitutional issues embodied in the instant federal questions, removal from state court to federal court is proper, and jurisdiction herein should be retained under 28 U.S.C. §§ 1331, 1441(c), 1443, and 2201.

Respectfully submitted,

_____

Rustin P. Wright
10603 Memphis Drive, Frisco, TX 75035
Tel: (469) 569-2435
Email: rustinwright@hotmail.com
Pro Se Petitioner Party of Record

[1] *Hodgson v. Minnesota*, 497 U.S. 417, 447 (1990) (The Court has frequently emphasized the importance of the family. The rights to *conceive* and to raise one's children have been deemed `essential,'... `basic civil rights of man,' (citations omitted)); *Thornburgh v. American Coll. of Obst. & Gyn*., 476 U.S. 747, 773 (1986) (Stevens, concurring) (`[T]he liberty... to direct the upbringing and education of children,'... are among `the basic civil rights of man.' (citations omitted); *Cleburne v. Cleburne Living Center, Inc*., 473 U.S. 432, 463 (1985) ([O]ne of the "basic civil rights of man" - the right to marry and *procreate*. (citations omitted)); *Zablocki v. Redhail,* 434 U.S. 374, 379, 383, 384 (1978) ([A]ppellee and the woman he desired to marry were *expecting a child*... and wished to be lawfully married before that time... *Id. at 379* Marriage is one of the `basic civil rights of man,' fundamental to our very existence and survival"... *Id. at 383* "the foundation of the family and of society, without which there would be neither civilization nor progress"... (citations omitted) *Id. at 384*); *Weinberger v. Salfi*, 422 U.S. 749, 771 (1975) (This Court referred to the fact that the "rights to *conceive* and to raise one's children have been deemed `essential,'... `basic civil rights of man,' (citation omitted)); *Vlandis v. Kline*, 412 U.S. 441, 461 (1973) (Dissent of Mr. Chief Justice Burger, and Mr. Justice Rehnquist) ([T]he rights of fatherhood and family were regarded as "`essential'" and "`basic civil rights of man'"); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (The rights to *conceive* and to raise one's children have been deemed "essential,"... "basic civil rights of man,"... (citations omitted)); *Loving v. Virginia*, 388 U.S. 1, 7 (1967) (State's… purposes were "to *preserve the racial integrity* of its citizens," and to prevent "the *corruption of blood*"); *Griswold v. Connecticut*, 381 U.S. 479, 503 (1965) Right to determine conception within marriage. ("[F]orbidding use of *contraceptives*" *at 479*) (White, concurring) ([T]he right "to marry, establish a home and bring up children,"… and "the liberty . . . to direct the upbringing and education of children,"... and that these are among "the basic civil rights of man.")

[2] For an excellent, thorough, and very enlightening review of this entire subject please read *University of California Regents v. Bakke*, 438 U.S. 265 (1978). The entire case is very illuminating from the standpoint that all of the Justices espoused views on subject of equality under the law that go far beyond the school admissions context.