UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

Cause No.: RDB 18CV0885

RONALD E. DIXON JR., 18751 Harmony Woods Lane Germantown, MD 20874 [Montgomery Co.] Petitioner, v. STATE OF MARYLAND, FREDERICK COUNTY DEPARTMENT OF SOCIAL SERVICES, 1888 North Market Street, P.O. Box 3066 Frederick, MD 21705-3066, *and* BETH M. DIXON, 503 Mount Vernon Place #3 Rockville, MD 20850 [Montgomery Co.], Respondents.	In the related removals from the Circuit Court of Frederick County, Maryland: State case number: C-10-CR-18-000024 *("State of Maryland v. Ronald Eugene Dixon")* AND State case number: 10-C-13-003130 *("Frederick County Department of Social Services v. Ronald Dixon")* Judge Julie R. Stevenson Solt, presiding CONSTITUTIONAL QUESTIONS DEMAND FOR JURY TRIAL

Notice of Constitutional Questions to Federal Statute 28 USC 1443

Comes now *removal petitioner*, Ronald E. Dixon Jr., noticing the Court and all parties in regards to formal raising of challenge to alleged unconstitutionality of 28 USC § 1443, thusly:

CONSTITUTIONAL QUESTIONS:

Because out of the eight (8) different statutory authorities for removal of state court cases into the federal courts, 28 USC § 1443 also being the only one never concerned with either comity or federalism regarding whatever subject matter was filed within the state court originally, and also being wholly opposite of – indeed, even generally *mutually exclusive* of – all other seven (7) removal types in literally *all* substantive and *all* procedural respects, and existing for a wholly

different purpose than all of the other seven (7) types of removal, the following questions of alleged unconstitutionality are here and now being formally raised for full briefing to follow:

- Is 28 USC § 1443 directly unconstitutional on its face for violating equal protection, class discrimination, etc., by wrongly limiting equal access of justice to only *defendant* parties?
- Is any pattern or practice of federal courts remanding 28 USC § 1443 removals, arbitrarily based on any *original state court subject matter type*, when that subject matter type is *not* one of the four (4) types excluded by 28 USC § 1445, directly unconstitutional on its face?
- Is any pattern or practice of federal courts remanding 28 USC § 1443 removals, arbitrarily based upon skin color "racial litmus test" screening, directly unconstitutional on its face?
- Is any pattern or practice of federal courts remanding 28 USC § 1443 removals, based on any 'abstention' or 'avoidance' doctrines, i.e., principles of comity and federalism, i.e., any attempts by federal courts to *"abstain" from intervening* within a state court matter, all directly unconstitutional on its face, when the express statutory language, the letter, the spirit, and the unambiguously clear mandate of 28 USC § 1443 are all, in fact, precisely about doing just exactly that by nature, *purposefully intervening* into a state court matter?

REQUIRED F.R.Cv.P. Rule 5.1(a)(1) LISTING:

The required listing of papers herein relevant to the discussion of this issue include at least:

a) the filing entitled, Notice Distinguishing Between the Two Basic Types of Removal;

b) the filing entitled, Notice of Pre-Emptive Constitutional Challenge to the Unlawful Discrimination of Separate Racial Classes via *Georgia v. Rachel*;

c) the filing entitled, Memorandum of Law Clarifying Established Federal Jurisdiction;

d) the filing entitled, Memorandum of Law in Support of Challenge to Unconstitutional Obstruction of Equal Access to 28 USC 1443 by Plaintiff Parties;

e) the filing entitled, Notice of Petition; and, Verified Petition for Warrant of Removal, and the same matters as may be amended; and,

f) all other filings entered within these matters, *passim*.

WHEREFORE, the undersigned *removal petitioner* requests the Court now formally certify the same constitutional challenge in question to the U.S. Attorney General, pursuant to F.R.Cv.P. Rule 5.1(b) and 28 USC § 2403(a), and prays for all further relief true and just in the premises.

Respectfully submitted,

Ronald E. Dixon Jr.
18751 Harmony Woods Lane
Germantown, MD 20874
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Email: ronalddixon410@hotmail.com
Pro Se Petitioner Party of Record

CERTIFICATE OF SERVICE

I hereby certify: that on this _____ day of March, 2018, a true and complete copy of the above notice of constitutional questions, by depositing the same via first class postage prepaid mail, USPS or equivalent postal carrier, has been duly served upon the following:

(Respondent State of Maryland)
c/o Attorney General Brian Frosh
200 St. Paul Place
Baltimore, MD 21202

(Respondent Beth)
Beth M. Dixon
503 Mount Vernon Place #3
Rockville, MD 20850

(Respondent FCDSS)
Frederick County Department of Social Services
1888 North Market Street
P.O. Box 3066
Frederick, MD 21705-3066

(Assistant State's Attorney for FCDSS)
Susan M. Little
Office of the State's Attorney
P.O. Box 210
Frederick, MD 21705-0210

(Assistant State's Attorney for Frederick County)
William J. Prunka
State's Attorney, Frederick County Office
100 West Patrick Street
Frederick, MD 21701

and, I further certify that a true and complete copy of the same notice of constitutional questions, by depositing the same via first class postage prepaid certified mail, USPS or equivalent postal carrier with return receipt requested and/or tracking, has been duly served upon the following:

U.S. Attorney General Jeff Sessions
Office of the United States Attorney General
c/o U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Ronald E. Dixon Jr.

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
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RONALD E. DIXON JR., 18751 Harmony Woods Lane Germantown, MD 20874 [Montgomery Co.] Petitioner, v. STATE OF MARYLAND, FREDERICK COUNTY DEPARTMENT OF SOCIAL SERVICES, 1888 North Market Street, P.O. Box 3066 Frederick, MD 21705-3066, *and* BETH M. DIXON, 503 Mount Vernon Place #3 Rockville, MD 20850 [Montgomery Co.], Respondents.	In the related removals from the Circuit Court of Frederick County, Maryland: State case number: C-10-CR-18-000024 *("State of Maryland v. Ronald Eugene Dixon")* AND State case number: 10-C-13-003130 *("Frederick County Department of Social Services v. Ronald Dixon")* Judge Julie R. Stevenson Solt, presiding CONSTITUTIONAL QUESTIONS DEMAND FOR JURY TRIAL

Memorandum of Law in Support of Challenge to Unconstitutional Obstruction of Equal Access to 28 USC 1443 by Plaintiff Parties

Comes now Petitioner, Ronald E. Dixon Jr., providing for the convenience of this Court and all parties this below memorandum of law, demonstrating that any language of 28 USC § 1443 in precluding full and equal access to equal protection of the law *must* be unlawful, stating thusly:

BACKGROUND

1. The Supreme Court has issued numerous rulings upon all manner of parental rights over the past 150+ years, and has also further clarified that all federal courts do have subject matter jurisdiction over the constitutionality of state child custody actions. "Parents have a fundamental right to the custody of their children, and the deprivation of that right effects a cognizable injury.

See *Santosky v. Kramer*, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982)." *Troxel v. Granville*, 530 U.S. 57, 68-69, 147 L. Ed. 2d 49, 120 S. Ct. 2054 (2000). Violations of parents' federal constitutional and/or due process rights within any state action affecting child custody rights, according to the U.S. Supreme Court, **are** cognizable claims in the federal courts.

2. When state court actions are the cause of those violations, the litigants violated by such action *must* have equal protection of the law under 28 USC § 1443 regardless of their party label.

3. 28 USC § 1443 purports by its language – without any basis or explanation – to allegedly preclude every litigant type except a "defendant" to have access to this protective law, an wholly unreasonable, patently arbitrary and capricious, and therefore *flatly unconstitutional,* preclusion.

4. The fundamental difference between removal under 28 USC § 1443 and removal under all other statutes, *see again* Petitioner's Notice Distinguishing Between the Two Basic Types of Removal, incorporated by reference the same as if fully set forth herein (H.I.), is that removals under § 1441 and those other types hinge upon the threshold matter of "most proper original" subject matter jurisdiction, hence in *those* kinds of removals, regarding comity and federalism, the particular party label/position of "plaintiff" should not be allowed to conduct what amounts to "forum re-shopping" of its own strategic decision to *originally* file whatever action within a state court (any state court), period. However, and quite to the contrary, removal under Section 1443 does not concern itself with the type of original subject matter, nor the original state case, nor the original pleadings, nor any concerns for comity or federalism, whatsoever, but is solely concerned with only the adherence of the state court itself to federal constitutional, due process and other federal issues, and that theoretically never triggered until months or even years after the given state court action was originally filed (for whatever original reasons), hence there is absolutely no related issues of "forum shopping" of that *original* subject matter in play, *at all*,

under Section 1443 removal, hence there are no justifications for denying **any** litigant perfectly equal access and availability to remove under Section 1443, hence party labeling is already moot by the time any litigant might eventually ever, if ever, remove under Section 1443, hence the language of 28 USC § 1443, in ostensibly allowing *only* "defendants" to remove is beyond any doubt as patently arbitrary and capricious, without basis of any kind, let alone a *rational* basis, and therefore cannot survive challenges under, e.g., equal protection, strict scrutiny, overbreadth.

REMOVAL ACTIONS ARE *NOT* LIMITED TO DEFENDANTS

5. Moreover, the party label of "defendant" is *already* not the only type of party that may remove under the federal laws; Any "foreign state" may remove a state court case into federal court, pursuant to 28 USC § 1441(d); Because of the interaction and interrelationships between 28 USC § 1441(e)(1) and 28 USC § 1369, especially the many party and cross-party variables under the latter, including routine cross-defendants in such actions, then 28 USC § 1441(e)(1) clearly allows "plaintiffs" who also become "counter-defendants" or third parties cross-suing back against *any* of those parties who then become "cross-defendants" (either of which is still a "defendant"...) to remove any such state case into federal court, even though frequently some of those "new defendants" (cross / counter) are actually still an original *plaintiff* in the state court, and by the very language of 28 USC § 1369 it includes "intervenors" and "foreign states" that also have statutory right via 28 USC § 1441(e)(1) to remove – **regardless** of *original* party label.

6. Of course, that same variable "counter-party" and "cross-party" potential runs into any other number of possible state court subject matters with multiple party-v-party relationships, hence once again there are clearly ways in which original state court "plaintiffs" can become "defendants" in fact and function and state court process, even though and regardless whether

that particular party is and/or was also known as a "plaintiff" party, hence with even a partial "nomenclature" of partial "defendant" labeling, removal for some "plaintiffs" is already valid.

7. Then, we could certainly get into numerous types of state court situations wherein there is perhaps also a guardian, or guardian *ad litem*, or trustee, or executor, and/or other third-party type "supervisory" parties within a given state case, i.e., a variety of party labels that might and should be able to remove on behalf of their "defendant" wards or objects (who might even be infants or incompetents, or even lands, trusts, or other properties, all as legal entities… all as named "defendant" parties… but all clearly also unable to prepare and file any court actions for themselves…), if the triggering circumstances exist, but for the fact that these supervisory type parties, instead, are simply not "labeled" or "classified" as the "defendant" parties, themselves.

8. Under 28 USC § 1442(a), the entire scope of language never uses ANY party label, not even once, to restrict or limit the access and availability of removal to any particular type of party *classifications*, but only upon direct descriptions of the allowed removal party types, as including the United States, and/or any agency thereof, or any officer thereof, or any subordinate thereof, or even a property holder thereunder, etc., but never once limiting to "defendant" parties.

9. Similarly yet again, 28 USC § 1452 provides removal by **any** party involved within the triggering type of state court action circumstances, i.e., there are no limitations or classifications as to which certain types of party labels may or may not remove – if the circumstances are valid in triggering right of removal, that is all that matters – just as it *must* also be via 28 USC § 1443, because that is all that matters under 28 USC § 1443, removal is valid *if the circumstances exist*, and that is completely irrespective and irrelevant of their given, particular party position labeling.

10. Similarly *yet again*, 28 USC § 1454 provides removal by **any** party involved within that triggering type of state court action circumstances, i.e., there are no limitations or classifications

as to which certain types of party labels may or may not remove – if the circumstances are valid in triggering right of removal, that is all that matters – just as it *must* also be via 28 USC § 1443, because that is all that matters under 28 USC § 1443, removal is valid *if the circumstances exist*, and that is completely irrespective and irrelevant of their given, particular party position labeling.

11. As we can clearly see, federal removal laws already provide literally every conceivable type of party – *regardless of their party label* – the valid right to remove in many circumstances, and when a party label limit or other parameter is included, it is always because of a *rational basis* to that form of removal, but when there is no rational basis to exclude different party types then there is no such party labeling limitation within the corresponding removal statute… except for lone 28 USC § 1443, whose "defendant" party limitation language is completely out of place, and wholly arbitrary and capricious, without *any* basis whatsoever, because a litigant's particular party labeling or classification simply has *nothing* to do with the form of removal under § 1443.

REMOVAL VIA 1443 IS SIMPLY A PROCEDURAL DEVICE, LIKE ANY OTHER

12. Directly related in both nature and function, removal under Section 1443 is simply yet another procedural device in law, that must be available to all parties like any other such device.

13. To the most germane point, removal under Section 1443 is expressly a litigant's option for invoking legal protection structure and process against a wayward state court judge and/or circumstances and/or process, much like, if not almost exactly like, any regular motion filed in a state court for a change of venue or change of judge for reasons of alleged bias and/or prejudice, except the given transaction is a change from the state court system into the federal court system.

14. Either/any party, regardless of party labeling or classification, may always invoke rights and process under state statutes and/or state court rules for a change of judge, or for change of venue, *when circumstances warrant such action.* It is a procedural right, indeed of fundamental

constitutional dimensions, to invoke legal protection against wayward state courts and/or their judges when appropriate, by implementing the corresponding legal device, and that availability is never limited to any particular party type, ever. The right exists purely because the triggering circumstances exist, and the same must be also true for Section 1443 removal, which is valid *if the circumstances exist*, and completely irrespective and irrelevant of particular party labeling.

15. Once again, the "defendant only" limitation of 1443's language is abhorrently contrary to the corresponding need for a rational basis of such limitation, because there is no provided basis for such limitation whatever, and moreover because Section 1443 has no concern for which party is which party below in the state court, being only concerned if triggering circumstances exist.

ARBITRARY BARRIERS TO COURT ACCESS ALSO VIOLATE EQUAL PROTECTION

16. The Equal Footing doctrine, also well known as equality of the states, is the principle in United States constitutional law that all states admitted to the Union under the Constitution since 1789 enter on "equal footing" with the 13 original states already in the Union at that time. The whatever future date of entering the Union does not matter. Neither the geographical size nor the population thereof matters whatsoever. It also does not matter whether the new State was prior a Territory or not. In *Coyle v. Smith*, 221 U.S. 559 (1911), the Supreme Court ruled that even if Congress would mandate that a unique limitation be put in a prospective state's constitution, and even if the state residents would agree to it, any such unique mandate could not be enforceable, with the point here obviously being that because Section 1443 only cares about whether or not the triggering circumstances exist, and not about any party labeling or position, and that original filing dates of state cases have no bearing upon removal under Section 1443, then it logically, reasonably and methodically follows that 28 USC § 1443 also cannot limit access to defendants.

17. Even people in prison, i.e., those who have been deemed as having constitutionally lost some of their rights, still have a constitutional right of access to the courts, because that critical basic right is a core foundation to all other rights. *Bounds v. Smith*, 430 U.S. 817, 821 (1977).

18. Likewise, the Supreme Court has never held that the States are constitutionally required to establish avenues of appellate review of criminal convictions. Nonetheless, "it is now fundamental that, once established, these avenues must be kept **free of unreasoned distinctions that can only impede open and equal access to the courts**." *Rinaldi v. Yeager*, 384 U.S. 305, 310, 86 S.Ct. 1497, 1500, 16 L.Ed.2d 577. See also *Griffin v. Illinois*, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891; *Douglas v. California*, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811; *Lane v. Brown*, 372 U.S. 477, 83 S.Ct. 768, 9 L.Ed.2d 892; *Draper v. Washington*, 372 U.S. 487, 83 S.Ct. 774, 9 L.Ed.2d 899; *North Carolina v. Pearce*, 395 U.S. 711, 724 725, 89 S.Ct. 2072, 2080, 23 L.Ed.2d 656; *Chaffin v. Stynchcombe*, 412 U.S. 17, 24 n. 11, 93 S.Ct. 1977, 1981, 36 L.Ed.2d 714. (emphasis added) "Equality of protection implies, not merely equal accessibility to the courts for the prevention or redress of wrongs and the enforcement of rights, but equal exemption with others in like condition from charges and liabilities of every kind." *Minneapolis & St. Louis Ry. Co. v. Beckwith*, 129 U.S. 26, 29, 9 S.Ct. 207, 32 L.Ed. 585 (1889).

19. Under the Due Process Clause of the Fourteenth Amendment, no State shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights. See *Duncan v. Louisiana*, 391 U. S. 145–149 (1968). The identification and **protection** of fundamental rights is **an enduring part of the judicial duty** to interpret the Constitution. *Obergefell v. Hodges*, 576 U.S. ___ @ 10, 135 S.Ct. 2071 (2015). That responsibility, however, "has not been reduced to any formula." *Poe v. Ullman*, 367 U. S. 497, 542 (1961) (Harlan, J., dissenting). Rather, it

requires courts to exercise reasoned judgment in **identifying interests of the person so fundamental** that the government must accord them its respect. See *ibid.* (emphases added)

20. Naturally, that judicial duty of properly identifying the true fundamental interests of the person involved, when that it is a "petitioner" who files a *petition* for removal into federal court, must accordingly be, to recognize exactly that – that the new litigant is ONLY a petitioner, as far as the federal court and Section 1443 are concerned, and is to be considered neither a "plaintiff" nor as a "defendant" for the nature and purposes of Section 1443 removal, and likewise that all other parties to that state action are to always be considered as "respondents" within the removal.

> Of course, the Constitution contemplates that democracy is the appropriate process for change, so long as that process does not abridge fundamental rights. Last Term, a plurality of this Court reaffirmed the importance of the democratic principle in *Schuette v. BAMN*, 572 U. S. ___ (2014), noting the "right of citizens to debate so they can learn and decide and then, through the political process, act in concert to try to shape the course of their own times." Id., at ___ – ___ (slip op., at 15–16). Indeed, it is most often through democracy that liberty is preserved and protected in our lives. But as *Schuette* also said, "[t]he freedom secured by the Constitution consists, in one of its essential dimensions, of the right of the individual not to be injured by the unlawful exercise of governmental power." Id., at ___ (slip op., at 15). Thus, when the rights of persons are violated, "**the Constitution requires redress by the courts**," notwithstanding the more general value of democratic decisionmaking. Id., at ___ (slip op., at 17).
> -- *Obergefell, supra*, slip op., at 24. (emphasis added)

CONCLUSION AND SUMMARY

21. Unlike all other types of removal, which are concerned about the original, initial subject matter filed as a new case in the state court, and therefore are often rightly concerned about the particular party positions in a procedural manner, removal under special section 28 USC § 1443 is never concerned with any of that, whatsoever, hence particular party labels of the state court litigants are irrelevant under § 1443, and there is no basis, much less a rational basis, for denying any state court "plaintiff" from free and equal access to § 1443 removal, if otherwise warranted.

22. *Already* under multiple federal removal statutes, and/or also under a wide variety of such perfectly valid possibilities and realities within the state court system and all actions therein as

are related to removal under those multiple statutes, are an equally diverse spectrum of different party label types/classifications that could and can presently file removals of their state cases, i.e., there are already an all-inclusive litany of party label types with valid potential of removal, hence once again Section 1443's limiting text is without basis and therefore is unconstitutional with respect to fundamental rights of equal access to the courts, to equal protection of the laws, to equal privileges and immunities, and etc., not to even mention regular individual due process.

23. In the special and unique nature of removal under Section 1443, the sole removal statute that is concerned with *unconstitutionally wayward behavior by the state court itself*, all litigants within the same given state court have equal right of access to invoke very similar counterparts of the appropriate motion for change of venue, or for change of judge, and there could never be any limiting factor between the party types themselves to such access, for such would be clearly devoid of any reasonableness or rational basis of any kind – exactly the same as the issue herein, the fully equal availability of any party to invoke an appropriate legal procedural device, hence equal right of access to removal under Section 1443 must likewise be available to any party type.

24. Without basis of any kind, let alone rational basis, the "defendant" limiting text within Section 1443 is patently arbitrary and capricious, and therefore wholly unconstitutional. Such an arbitrary barrier against the right of equal access to the courts also wrongfully impinges upon the parallel right of equal protection of the law, violates the very guaranteed precept in the right to redress the government for grievances, reduces mere party label types to instant losers without even the basic right of access to the courts that convicted prisoners always enjoy, violates the very idea of equal privileges and immunities, and violates the avenues of review which "must be kept free of unreasoned distinctions that can only impede open and equal access to the courts."

25. There is no lawful basis for Section 1443 to restrict access/availability to any particular types of party, whatsoever, much less any single, solitary type of party. It is manifestly unjust, there is served absolutely no purpose in doing so, whatsoever, there is no basis for such limit, and it also violates about every possible precept in well-established constitutional rights and law.

26. When new insight reveals discord between the Constitution's central protections and a received legal stricture, a claim to liberty must be addressed. *Obergefell*, *supra*, slip op., at 11.

WHEREFORE, your Petitioner, Ronald E. Dixon Jr., reaffirms federal subject matter jurisdiction and supports his direct challenge to the unconstitutionally repugnant language within Section 1443 limiting "equal" access of law and rights to arbitrarily party labels of "defendants" *only*, and prays for all relief that is true, lawful, just, and proper within these premises.

Respectfully submitted,

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Tel: (202) 531-8661
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Pro Se Petitioner Party of Record

CERTIFICATE OF SERVICE

I hereby certify: that on this 27th day of March, 2018, a true and complete copy of the above memorandum of law upon obstruction of removal access by plaintiffs, by depositing the same via first class postage prepaid mail, USPS or equivalent carrier, has been duly served upon:

(Respondent State of Maryland)
c/o Attorney General Brian Frosh
200 St. Paul Place
Baltimore, MD 21202

(Respondent FCDSS)
Frederick County Department of Social Services
1888 North Market Street
P.O. Box 3066
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