

FILED

JUN 10 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Ali Shahrokhi
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In Proper Person

IN THE SUPREME COURT OF NEVADA

ALI SHAHROKHI,
Appellant,

) Case No's.: **81978/82245**

) District Court Case No.: D-18-581208-P

vs.

KIZZY BURROW,
Respondent.

“MOTION TO REQUEST FOR RECONSIDERATION OF DENIAL OF MOTION to STAY FOR FAILING TO DEMOSNTRATE NRAP 8(D) FACTORS IN FAVOR OF STAY.”

ALI SHAHROKHI (“ALI”), in proper person, respectfully submits this Motion for reconsideration of Order for DENIAL OF STAY issued on 6/24/2021 on . Shahrokhi respectfully asks this Court to consider all facts involved for a good cause and grant this order. Shahrokhi also challenges the constitutionality of NRAP(8) as it is in direct of Shahrokhi’s parental liberty rights and equal protection guaranteed by the 1st and 14th Amendment rights under U.S. Constitution.

DATED this 9th day of June, 2021.

DocuSigned by:

Ali Shahrokhi
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Ali Shahrokhi

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JUN 09 2021

ELIZABETH A. BROWN
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21-116081

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Shahrokhi respectfully requests this court to reconsider this motion as NRAP 8 (d) is in direct conflict of parental rights liberty guaranteed by the 1st and 14th Amendments of the U.S. Constitution. Shahrokhi wants to remind this court about Parental rights are fundamental rights protected under federal/constitutional law. The USSC plurality decision in *Troxel v. Granville*, 530 U.S. 57 (2000) evinces that all nine justices agree that parental rights are fundamental rights. Fundamental rights are possessed by the individual, not the married couples. Fundamental rights are also called **substantive rights** or natural rights.

Invidious gender discrimination is needed for conspiracy actions under the first clause of 42 U.S.C. sec. 1985(3). Approximately 85% to 90% custody decisions are sole maternal custody. This is Gender Bias in PRACTICE. Such discrimination is not legal or in the best interest of children at all. A child has an equal right to be raised **by the Father**, and must be awarded to the Father equally.

ArtVI.C2.1.1.3 Supremacy Clause

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; **and the Judges in every State shall be bound thereby**, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections. *Langton v. Maloney*, 527 F Supp 538, D.C. Conn. (1981).

1 Parent's right to custody of child is a right encompassed within protection of
2 this amendment which may not be interfered with under guise of protecting public
3 interest by legislative action which is arbitrary or without reasonable relation to
4 some purpose within competency of state to effect. Reynold v. Baby Fold, Inc., 369
5 NE 2d 858; 68111 2d 419, appeal dismissed 98 S Ct 1598, 435 US 963, IL, (1977).

6 Parent's interest in custody of their children is a liberty interest which has
7 received considerable constitutional protection; a parent who is deprived of custody
8 of his or her child, even though temporarily, suffers thereby grievous loss and such
9 loss deserves extensive due process protection. In the Interest of Cooper, 621 P 2d
10 437; 5 Kansas App Div 2d 584, (1980).

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13 of his or her child, even though temporarily, suffers thereby grievous loss and such
14 loss deserves extensive due process protection. In the Interest of Cooper, 621 P 2d
15 437; 5 Kansas App Div 2d 584, (1980).

16 Hence lack of due process (substantive or procedural) would not warrant
17 termination of parental rights. Father enjoys the right to associate with his minor
18 which is guaranteed by the First amendment as incorporated in the 14th
19 Amendment , or which is embodied in the concept of "liberty" as that word is used in
20 the Due Process Clause of the 14th Amendment and Equal Protection Clause of the
21 14th Amendment. Mabra v. Schmidt, 356 F Supp 620; DC, WI (1973).

22 The United States Supreme Court noted that a parent's right to "the
23 companionship, care, custody and management of his or her children" is *an*
24 *interest "far more precious" than any property right.* May v. Anderson, 345 US
25 528, 533; 73 S Ct 840,843, (1952). A parent's right to care and companionship of his
26 or her children are so fundamental, as to be guaranteed protection under the First,
27 Ninth, and Fourteenth Amendments of the United States Constitution. in re: J.S.

1 and C.,324 A 2d 90; supra 129 NJ Super, at 489. The Court stressed, "the parent-
2 child relationship is an important interest that undeniably Warrants deference and,
3 absent a powerful countervailing interest, protection.

4 A parent's interest in the companionship, care, custody and management of
5 his or her children rises to a constitutionally secured right, given the centrality of
6 family life as the focus for personal meaning and responsibility. Stanley v. Illinois,
7 405 US 645, 651; 92 S Ct 1208,(1972).Parent's rights have been recognized as being
8 "essential to the orderly pursuit of happiness by free man." Meyer v. Nebraska, 262
9 or 426 US 390; 43 S Ct 625, (1923).

10 The U.S. Court of Appeals for the 9th Circuit (California) held that the
11 parent-child relationship is a constitutionally protected liberty interest. (See;
12 Declaration of independence --life, liberty and the pursuit
13 of happiness and the 14th Amendment of the United States Constitution --No state
14 can deprive any person of life, liberty or property *without due process of law nor*
15 *deny any person the equal protection of the laws.*) Kelson v. Springfield, 767 F
16 2d 651; US Ct App 9th Cir, (1985). The parent-child relationship is a
17 liberty interest protected by the Due Process Clause of the 14th
18 Amendment. Bell v. City of Milwaukee, 746 f 2 1205, 1242-45; US Ct
19 App 7th Cir WI, (1985). *No bond is more precious and none should be more*
20 *zealously protected by the law as the bond between parent and child."*
21 *Carson v. Elrod*, 411 F Supp 645, 649; DC E.D. VA (1976).

22 A parent's right to the preservation of his relationship with his child derives
23 from the fact that the parent's achievement of a rich and rewarding life is likely to
24 depend significantly on his ability to participate in the rearing of his children. A
25 child's corresponding right to protection from interference in the relationship
26 derives from the psychic importance to him of being raised by a loving, responsible,
27 reliable adult. Franz v. U.S., 707 F 2d 582, 595-599; US Ct App (1983). A parent's
28

1 right to the custody of his or her children is an element of "liberty" guaranteed by
2 the 5th Amendment and the 14th Amendment of the United States Constitution.
3 Matter of Gentry, 369 NW 2d 889, MI App Div (1983).

4 **NRAP 8(D) IS UNCONSTITUTIONAL**

5 Shahrokhi has demonstrated that supremacy clause applies even in family
6 custody cases. **All judges must respect and apply federal laws and rules in**
7 **precedence of state statutes or rules that are in direct conflict of federal**
8 **laws.**

9 As parental rights are protected under 1st and 14th amendment and require
10 stric scrutiny and substantive due process, any state statues or rules that are in
11 conflict with the fundamental parental liberty and equal protection of both parents
12 are presumed to **be INVALID** and the burden shifts onto the state to rebottle that
13 presumption.

14 State of Nevada has NEVER found Shahrokhi to be an **"Unfit"** parent and
15 has never set up a fitness hearing to do such fact findings, therefore by law the
16 state of Nevada Lacks constitutional authority or subject-matter jurisdiction to
17 infringe upon the parental rights off Shahrokhi.

18 The Only way state can infringe upon Shahrokhi's rights are:

19 **A- If Shahrokhi has been declared "Unfit"**

20 **B- The Child has been abused by Shahrokhi or is imminent Danger.**

21 State of Nevada has NEVER proved option A or B and therefore again Shahrokhi is
22 presumed to be a fit parent which under federal law means Shahrokhi makes the best decisions in
23 regards to his minor child and not the state of Nevada.

24 Just because Burrow has filed custody dispute and is asking the court to give her full
25 custody of the kid, does not give state courts any constitutional authority to infringe upon on
26 Shahrokhi's rights.

1 NARP 8(d) is in violation of equal protection of custody among both parents and parental
2 liberty rights to care and have custody of the child 50/50 as the state does not have any
3 constitutional authority to infringe upon the parent's rights unless the state can first prove on the
4 record what constitutional authority they have to violate a fit parents rights. State courts have
5 **ZERO authority** to infringe on parental rights unless they have declared one parent as unfit or
6 again the child has been in imminent danger or neglect and in this case state has NOT proved any
7 of the two.

8 Therefore State of Nevada lacks any subject-matter authority to infringe upon my
9 parental rights unless first it can prove on the record what subject-matter jurisdiction it has
10 before it can separate my child from me Therefore because NARP 8(d) does not offer substantive
11 due process, it is not narrowly tailored as mandated by federal law it is presumed to be
12 **INVALID.**

13 **Shahrokhi is only demonstrating NRAP 8 (d) here for the**
14 **court as it is a court rule, however Shahrokhi declares NRAP 8**
15 **Invalid as it is in violation of Shahrokhi's 1st and 14th**
16 **Amendment rights.**

17 Ali's Motion for Stay Should Be Granted Because B.E.S (The Minor) and Ali
18 have suffered and continue to suffer Hardship and irreparable Harm if the Stay is
19 Denied, and Because Ali Will Likely Prevail on His both of his appeals.

20 **I. B.E.S Will Continue to Suffer Hardship & Harm if**
21 **the Stay is not Granted.**

22 Court of appeals case # 79336 Directives stated: "That Shahrokhi and the
23 child may immediately commence limited contact, such as phone calls or supervised
24 visitation, at least once per week. To this date (almost 23 months later) After many
25 motions and writ of mandamus petitions to set immediate physical visitation,
26 Burrow has refused to participate in such in direct violations of Shahrokhi's
27 parental rights.

1 From B.E.S's point of view it appears that his father has abandoned him and
2 agreed that he could move 800 miles to a place where he has no ties. This has been
3 extremely damaging to B.E.S, who has a strong relationship with Ali. It has been
4 harmful to B.E.S because he no longer has any privacy where he lives. B.E.S has
5 been forced to live in Burrow's boyfriend's one-room apartment, where he does not
6 even have his own room. B.E.S has been forced to sleep on the couch in the living
7 room for the past 23 months . He is 12 years old now this situation is even more
8 unstable than it may seem because now that we know Burrow's boy friend is a drug
9 dealer and there is a pending Honeycutt motion before the lower court for perjury
10 and fraud upon the Court by Burrow, her boyfriend and all her attorneys.
11

12 B.E.S's corresponding right to protection from interference in the
13 relationship derives from the psychic importance to him of being raised
14 by a loving, responsible, reliable adult such as his father whom he has a
15 very strong relationship with.
16

17 No bond is more precious and none should be more zealously protected by
18 the law as the bond between parent and child." Carson v. Elrod, 411 F Supp 645,
19 649; DC E.D. VA (1976). B.E.S is suffering big time by not having any physical
20 visitation with his father for the past 23 months. B.E.S has a mirroring first
21 amendment rights to have association with his father, be in the custody of his
22 father, and he has been deprived out of that for the past 23 months and that is a
23 serious irreparable harm to his state of mind, growth and his emotions and
24 physical requirements.
25
26
27
28

1 B.E.S is the prisoner of Burrow in a 725 sqft now, he has no activity he is
2 partipating in, he has not learned a new skill in the past 23 months, he has
3 stopped playing golf, soccer, learning how to swim in the past 23 months and these
4 have serious consequences on this child emotional and physical growth. This child
5 has SUFFERED and continues mentally and physically through the reckless acts
6 and behavior of Burrow who is mentally, morally and financially a bankrupted
7 individual.
8

9 **II. Burrow Will Not Suffer Hardship or Harm if the** 10 **Stay is Granted.** 11

12 Burrow will be in the exact same position she was in prior to the court's
13 orders. She has no immediate family in Oregon, there was no good reason for her to
14 be in Portland but just to move in with her drug dealer boy friend who is funding
15 this litigation and conspiring with Burrow's lawyer to violate Shahrokhi's and
16 minor's parental rights so he can keep Burrow around him in Portland.

17 Burrow does not have a better job in Portland and most of her jobs have been
18 in Las Vegas and we have evidence that the entire time she was traveling to Las
19 Vegas for her work and left the minor under a supervision of a drug dealer for days
20 and nights.

21 Burrows life has not changed or improved financially at all ever since she has
22 left Las Vegas to live with the drug dealer Pearson in Portland, Oregon and it has
23 all been lies to the Court. Please be informed there is a honey cut motion for Rule 60
24 for perjury and fraud brought upon the Court currently in the district court that has
25 not yet been decided. Staying the Court orders that lack substantive due process
26 and without subject Matter jurisdiction will not affect Burrow's life in any way or
27 shape at all.
28

III. Shahrokhi is Likely to Prevail on His Appeal.

Shahrokhi is likely to prevail on his appeal because the district court manifestly abused its discretion and violated Ali's due process rights, (Substantive and procedural) causing far reaching consequences to B.E.S's relationship with Ali, as set forth above. Specifically, the district court manifestly abused its discretion as follows:

1- District Court has never proven its constitutional authority as challenged by Shahrokhi before and at the trial as mandated by law;

2- District Court has violated Shahrokhi's substantive and procedural due process rights;

3- District Court has no subject-matter jurisdiction to decide on criminal statutes under the civil setting manners that affect Shahrokhi's constitutional rights under Nevada Constitution Article 1, Section 8;

4- District Court has never declared Shahrokhi unfit, yet continues to infringe upon Shahrokhi parental rights;

IV. Other Equitable Considerations.

Here, the court should consider the following:

1- Stay the Orders and immediately establish physical custody 50/50 under equal protection rights associated with 14th Amendment rights;

2- B.E.S would benefit from the re-establishment of his relationship with Shahrokhi. Neither party has disputed that B.E.S has a close relationship with Shahrokhi or that Shahrokhi has been a daily presence in Bennett's life since Bennett's birth;

3- Last time anyone has heard or seen about the minor is the child interview which has been filed into this Court on 2/2/21, this court should read the child interview and see the child's statements about his father's relationship with him;

4- A refusal to grant the stay will act as a stamp of approval for the wrongs

1 committed by the district court and continuing to deprive Shahrokhi and his minor
2 child to their protected constitutional rights guaranteed by the U.S. Constitution.

3 **CONCLUSION**

4 A judgment may not be rendered in **violation of constitutional**
5 **protections**. The validity of a judgment may be affected by a failure to give the
6 constitutionally required due process notice and an opportunity to be heard. Earle v.
7 McVeigh, 91 US 503, 23 L Ed 398. See also Restatements, Judgments; 4(b).

8 The limitations inherent in the requirements of due process and equal
9 protection of the law extend to judicial as well as political branches of government,
10 so that a **judgment may not be rendered in violation of those constitutional**
11 **limitations and guarantees**. Hanson v Denckla, 357 US 235, 2 L Ed 2d 1283, 78
12 S Ct 1228.

13 A void judgment is not entitled to the respect accorded a valid adjudication,
14 but maybe entirely disregarded, or declared inoperative by any tribunal in which
15 effect is sought to be given to it. It is attended by none of the consequences of a valid
16 adjudication. It has no legal or binding force or efficacy for any purpose or at any
17 place. ... It is not entitled to enforcement ... All proceedings founded on the void
18 judgment are themselves regarded as invalid. 30A Am Jur Judgments 39; 44, 45.

19 It is a fundamental doctrine of law that a party to be affected by a personal
20 judgment must have his day in court, and an opportunity to be heard. Renaud v.
21 Abbott, 116 US 277, 29 L Ed 629, 6 S Ct 1194.

22 Shahrokhi demands this court to protect his constitutional rights and
23 reconsider the fact the final judgment is in violation of Shahrokhi's substantive and
24 procedural due process rights, therefore void and must **STAY until this appeal is**
25 **resolved**.

DocuSigned by:

Ali Shahrokhi

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In Proper Person

AFFIDAVIT of Ali Shahrokhi

My name is Ali Shahrokhi. I am a litigant before the court. All of the allegations herein are true and correct of my own personal knowledge. If called upon to testify, I could and would give competent and truthful evidence.

I hereby declare under penalty of perjury under the laws of the State of Nevada the foregoing is both true and correct.

Dated: June 9th, 2021

DocuSigned by:

Ali Shahrokhi

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Ali Shahrokhi

Declarant.

-CERTIFICATE-OF-SERVICE-

I am an individual over the age of eighteen and not a party to the within action. My home address is 10695 Dean Martin Dr. #1214, Las Vegas, Nev. 89141. My phone number is (702)835-3558.

On **June 9th, 2021**, I served the following:

"Motion for Reconsideration"

On an interested party in the above-entitled action by
 X via e-mail transmission,
 personal service on the person below listed,
 X depositing it in the U.S. Mail, postage prepaid,
and addressed to the person below listed,
 overnight delivery, addressed as follows:

Stacy Rocheloun, District Court Judge
601 N. Pecos Rd.
Las Vegas, NV 89101
Yvonne Ruiz (E-Served)
170 S Green Valley Pkwy. #300
Henderson, NV 89012

I declare under penalty of perjury under Nevada law the foregoing is true and correct.

Dated: **June 9th, 2021.**

DocuSigned by:

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Ali Shahrokhi

6/9/2021