



**provisions of the Oklahoma Children's Code may be modified by the court at any time..."**

(emphasis added).

5. That the natural mother has constitutionally protected rights under both the Oklahoma and U.S. Constitutions in the care and companionship of their children. *In the Matter of Baby Girl L.*, 2002 OK 9, ¶ 13, 51 P.3d 544 and yet was never provided a hearing on her pro se motion to vacate.

6. Subsequently, Natural Mother by and through her attorney filed a motion to vacate and no hearing was provided.

7. Natural mother filed an emergency change of placement and the statute requires a hearing within 72 hours: Specifically; 10A O.S. § 1-4-807.1(A) provides:

Once a child is the subject of a deprived child proceeding, any party may file a verified application for an emergency hearing that demonstrates harm or threatened harm to the health, safety or welfare of that child. Upon receipt of the application for emergency hearing, **the court shall have seventy-two (72) hours to conduct a hearing.** If the court fails to conduct a hearing within that time, the movant may present the application for emergency hearing to the presiding judge or the presiding juvenile judge of the judicial district who shall conduct an emergency hearing within twenty-four (24) hours of receipt of the application.

*Id.*

8. The court did not have a hearing within 72 hours and further interfered with Natural Mother's right to have the hearing before the Presiding Judge by emailing the Presiding Judge as a preemptive strike to ensure the matter not be heard before him. The Court stated: "I have included Judge Kirkley in this email, just so he knows the status in the event anyone approaches him to set it for a hearing." Further, the Court asserted that Natural Mother needed to prove that the foster parent was served, even though the foster parent emailed the Judge and stated that she was just served and asked for instructions on how to proceed.

9. Dana Jim is a Co-Counsel for Natural Mother in this case as well as a federal lawsuit. He had previously purchased transcripts without any concerns. Mr. Jim was suddenly denied further transcripts by the Court reporter because: "Dana, It has come to my attention that there is no entry of appearance by you in the Woolley case. I cannot provide you with any further documents until your entry is filed. If you have questions, please contact Judge Brown."

10. During the in camera recusal hearing, when Mr. Jim announced he filed a notice of intervention on behalf of the maternal grandparents, he was ordered to leave the chambers even though he is Co-Counsel for the natural mother.

11. Natural Mother had to attend hearings in Adair County because it was more convenient for the Court, yet the Natural Mother, who the Court was aware had transportation issues had to travel to Stillwell nevermind the convenience of a mother and party to a case. Under 20 O.S. § 95.7 mother never consented to hearings beyond Wagoner County.

12. The court told DHS in a proceeding to file a restraining order against Natural Mother's Parents.

13. The Court and the State have referred to a no contact order against the maternal grandparents yet the docket sheet fails to show one until August of 2021 when the non-existent one was deemed to be a continuing one.

14. That numerous times the State has referred to the existence of a gag order. However, nowhere on the docket sheet does the existence of one appear. The alleged gag order existed in the dismissed criminal case, not this case. Rather, it is being used to attempt to conceal the unlawful conduct of the numerous public officials in this case. Natural Mother has been admonished (and threatened with jail and contempt) yet the State and law enforcement have never been admonished for public comments made by the DA's Office or law enforcement. At

the recusal hearing the state attempted to address some "concerns" that it had with documents referenced by the Undersigned in his filings. The implication being that Natural Mother violated some order by sharing the documents with her Counsel. In fairness to the Court, the Court acknowledged that Natural Mother is allowed to provide documents to her counsel but the spurious nature of the State's argument demonstrates the ease and expectations of achieving whatever it wants from the Court.

15. DHS perpetrated a fraud on the court without clarification or any corrective action by the court. For example, a court report has many times alleged that the minor child witnessed his brother being killed. This fact has never been alleged and is false. The DHS worker acknowledged to the Natural Mother that it was false. But it kept appearing over and over again in court documents.

16. The Court expressed the opinion that the issues in this case can never be challenged and stated: "What DHS substantiates and what can criminally happen are two different things. DHS has substantiated in this case. The time to contest that was four years ago. So to come back now and try to contest those things, I mean, it's out of time. Nothing is going to change about the DHS case, at this point." This is a problematic statement for many reasons. Natural Mother has filed a motion to vacate in this case, including the deprived orders based on fraud and/or misconduct. This comment makes clear that Natural Mother's Motion will be unsuccessful, she had announced before the issue even came before the Court the intentions. If this does not demonstrate bias nothing does.

17. Mother had to leave her living situation at her facility and was told the child could never go there, Further, the facility was faith-based and deemed insufficient by DHS.

18. Mother filed a motion to vacate on February 22, 2022 and adopts this motion as though fully set forth herein as well as her assertions in the in camera hearing.

19. That the above raises questions about whether this Court can be neutral and detached or at the very least creates an appearance of bias.

20. That pursuant to *Clark v. Bd. Of Ed. Of Ind. Sch. Dist. No. 89*, 2001 OK 56, §§ 6-11, 32 P.3d 851, Mother demands an evidentiary hearing over this motion.

21. That pursuant to *Miller Dollarhide, P.C. v. Moshe Tal*, 2007 OK 58, §§ 10-20, 163 P. 3d 548, this matter must be stayed until the Mother exhausts her options under Rule 15. That staying this matter is mandatory based on *Moshe Tal* and its progeny. See also *Clark, supra* at §§ 10-12.

22. That Rule 15(b) of the Rules for District Courts of Oklahoma provides that any “interested party who deems [herself] aggrieved by the refusal of a Judge to grant a motion to disqualify or transfer a case to another Judge may re-present [her] motion to the Chief Judge of the County in which the cause is pending....”

23. That in *Clark, supra*, the Oklahoma Supreme Court stated

“A fundamental requirement of due process is a fair and impartial trial. A neutral and detached judiciary is imperative to ensure procedural fairness to individual litigants and to preserve public confidence in the integrity of the judicial process. Every litigant is entitled to nothing less than the cold neutrality of an impartial judge.”

*Id.* ¶ 6.

24. The Court in *Clark* further stated:

“A challenge to an assigned judge for want of impartiality presents an issue of constitutional dimension which must be resolved and the ruling memorialized of record *after a meaningful evidentiary hearing. The quest for recusal may not be ignored, nor is a judge free to proceed with the case until the challenge stands overruled of record following a judicial inquiry into the issue. Want of a record ruling upon this critical issue subjects the moving party to a trial before a judge whose challenged impartiality goes*

*untested. The challenger is hence entitled to a new trial before a judge who is unchallenged or found not to be disqualified."*

*Id.* at ¶ 7.

25. 10A O.S. § 1-6-102 provides that the confidentiality rules cannot be construed as "limiting or otherwise affecting access of parties to a deprived proceeding to records filed with or submitted to the court."

## BRIEF IN SUPPORT

### RECUSAL IS APPROPRIATE IN THIS MATTER

The code of Judicial Conduct Canon III(E)(1)(a) provides as follows:

"A Judge should disqualify himself or herself in the proceeding in which the Judge's impartiality might reasonably be questioned..."

A judge should disqualify from a cause if there are circumstances are of "such a nature as to cause doubt as to his partiality, bias or prejudice." *Merritt v. Hunter*, 575 P.2d 623, 624 (Okla. 1978) [citing *Heard v. Sullivan*, 280 P.2d 708, (Okla. 1955)]. If a judge believes himself to be unprejudiced but there are circumstances that causes doubt as to his partiality, bias or prejudice, he should nevertheless disqualify himself. *Mosha Tal*, 2007 OK 58, ¶¶ 10-28, 163 P.32 588; *see also Merritt*, 575 P.2d at 624. The Oklahoma Supreme Court has stated "that courts must be sensitive to appearances of possible impropriety as well as to actual occurrences." *Pierce v. Pierce*, 2001 OK 97, ¶ 13.

Bias or the appearance of bias implicates due process concerns. The appearance of bias deprives litigants and clients of a fair trial. Due process requires "not only a fair trial but also the appearance of a fair trial." *Pierce*, 2001 OK 97 at ¶ 18. Adherence to this concept "may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between the contending parties." *Pierce*, 2001 OK 97 at ¶ 19.

WHEREFORE, for all of the foregoing reasons, Natural Mother respectfully requests that this Court recuse and that the matter be transferred while the recusal issues are being exhausted, including any necessary hearings, and any other and further relief that this Court deems proper.

Respectfully Submitted,



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### CERTIFICATE OF SERVICE


This is to certify that on the 7 day of June 2022, a true and correct copy of the above document was mailed by first class mail, postage prepaid to:

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