**APPELLATE BRIEF**

David Martin

v.

Attorney General Kwame Raoul, Judge Gregory Emmett Ahern Jr., Unnamed Cook County Clerks, Cook County, Chief Deputy Clerk Gretchen Peterson, Unknown employee of the Illinois, Department of Employment Security

Appeal No. xxxx

March 19, 2021

Appeal from the United States District Court for the Northern District of Illinois.

**Brief of Appellant David Martin**

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**STANDARD OF REVIEW**

I am requesting a De Novo Review of all issues.

**PARTIES TO THE PROCEEDING**

1. The Plaintiff

Name: David Martin, a natural person.

Street Address: 5352 S. Princeton Ave

City and County: Chicago, Cook County

State and Zip Code: Illinois, 60609

E-Mail Address: [MartinvThompson@gmail.com](mailto:MartinvThompson@gmail.com)

The Defendant(s)

1. Defendant

Name: Attorney General Kwame Raoul individually

and in his official capacity

Represented by: Mary Johnston

Street Address: 115 South LaSalle Street, 27th Floor

City and County: Chicago, Cook County

State and Zip Code: Illinois 60603

Phone: (312) 814-4417

E-Mail Address: [mary.johnston@ilag](mailto:mary.johnston@ilag).gov

1. Defendant

Name: Judge Gregory Emmett Ahern Jr. individually

and in his official capacity

Represented by: Mary Johnston

Street Address: 115 South LaSalle Street, 27th Floor

City and County: Chicago, Cook County

State and Zip Code: Illinois 60603

Phone: (312) 814-4417

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**STATEMENT OF JURISDICTION**

The US District Courts jurisdiction is based on 42 U.S. Code § 1983, 28 U.S.C. § 1331, 28 U.S. Code § 1446 and § 1441I… A civil rights complaint was filed against the defendants in the US District Court. Among many things, the complaint alleges deprivations of rights under the color of law, and it seeks declaratory relief. The district court has made a final and appealable order on May 23rd 2024. The US Court of Appeals for the Seventh Circuit has jurisdiction under 28 U.S.C. §§ 1291-1292.

Defective allegations of jurisdiction can be amended in the court of appeals. See 28 U.S.C. § 1653**…** **“the court of appeals can order a party to file an amended pleading which establishes jurisdiction or file a notice with the court explaining why that cannot be done”. See Heinen v. Northrup Grumman Corp., 671 F.3d 669, 670 (7th Cir. 2012).** Given the afore mentioned case law, I would like to amend my jurisdictional claim in US District Court to include 28 US Code section 151 Declaratory Judgments… I am seeking several declaratory judgments. Most notably, I’m seeking declaratory judgment that would allow me to appeal the state case in the state court of appeals.

**STATEMENT OF THE ISSUES**

1. Whether the District Court erred in dismissing my claims for declaratory and injunctive relief against Judge Ahern on the grounds of judicial immunity.
2. Whether the District Court erred in dismissing the claims against the Cook County Clerks (Gretchen Peterson), for lack of service without providing me an opportunity to properly effectuate service.
3. Whether the District Court has jurisdiction to hear constitutional challenges against the Illinois statute governing the Contribution to College Expenses (750 ILCS 5/513), and whether my claims regarding this statute were improperly dismissed

**STATEMENT OF THE CASE**

1. **Introduction to the Case**

This appeal arises from the district court’s denial of my complaint. In that complaint I sought several forms of relief. Among which were injunctive and declaratory relief. In addition, I sought to challenge the constitutionality of the state statute for contribution of college expenses. I argue that the district court improperly concluded that my claims were barred by judicial immunity and federal abstention doctrines.

**“pleadings of pro se petitioners are held to less stringent standards**

**than those prepared by attorneys, and are liberally construed when determining**

**whether they fail to state a claim upon which relief can be granted”. Haines v.**

**Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Jourdan v. Jabe, 951 F.2d 108, 110 (6th Cir.1991).**

1. **Statement of Facts**

**CIRCUIT COURT OF COOK COUNTY**

1. **May 2017:** The Illinois Department of Healthcare and Family Services (HFS) filed a petition for child support arrearages. Ms. Thompson was the plaintiff but did not provide a mailing address or email address. I responded with a 2-619 motion to dismiss and a counterclaim, arguing against Ms. Thompson’s claims for contribution to college expenses.
2. **August 24, 2020:** I filed a claim against Ms. Thompson, requesting a trial by jury.
3. **May 25, 2021:** Judge Mackoff entered a final and appealable judgment. After the hearing, Judge Mackoff advised Ms. Thompson to hire a lawyer, warning her about potential consequences if she did not. He then held a private meeting with Ms. Thompson.
4. **June 7, 2021:** I filed a notice of appeal for the child support judgment. Ms. Thompson was served at her address, 3550 South Giles Avenue Unit 4N, Chicago, IL 60653.
5. **June 16, 2021:** I filed the docketing statement with the court of appeals. Ms. Thompson was served at her address.
6. **June 22, 2021:** Attorney Keith L. Spence filed an appearance on behalf of Ms. Thompson.
7. **July 13, 2021:** Attorney Spence filed a petition for contribution to college expenses.
8. **October 29, 2021:** Judge Marita Sullivan issued an order for me to appear in court.
9. **December 3, 2021:** Ms. Thompson did not appear in court, and Judge Julie Aimen struck the case from her call.
10. **January 7, 2022:** Judge Julie Aimen issued an order for me to appear on January 31, 2022, via Zoom.
11. **January 10, 2022:** I refiled my motion to correct the court record, which had been previously filed on November 29 and December 13.
12. **January 12, 2022:** I was diagnosed with COVID-19.
13. **January 31, 2022:** A default order for contribution to college expenses was entered against me by Judge Julie B. Aimen.
14. **March 10, 2022:** Judge Ahern entered a judgment against me for contribution of college expenses. I did not participate in Ahern’s hearing for college expenses.
15. **June 8, 2022:** Judge Ahern denied my motion to certify the bystanders report, and I filed a notice of appeal in state court on June 10, 2022.
16. **September 8, 2022:** The state court appeal for child support was dismissed for lack of jurisdiction.
17. **December 15, 2022:** The state court appeal for college expenses was dismissed for lack of jurisdiction.

**U.S. DISTRICT COURT**

1. **November 10, 2022:** I filed a complaint in the U.S. District Court for the Northern District of Illinois, with Judge Ahern as one of the defendants.
2. **November 14, 2022:** I filed a notice of removal in state court and provided copies to the opposing party.
3. **November 14, 2022:** The state court entered the notice of removal into its record.
4. **November 18, 2022:** I appeared in state court via Zoom to notify Judge Ahern and the opposing parties of the case’s removal to federal court.
5. **March 17, 2023:** Judge Ahern continued to conduct court hearings despite the removal notice.
6. **April 26, 2023:** I refiled the notice of removal in state court.
7. **April 26, 2023:** The state court entered the refiling of the notice of removal into its record.
8. **August 23, 2023:** I received an email indicating a potential body attachment if I failed to appear in state court. A case search revealed that I was held in contempt of court on August 10, 2023.
9. **September 14, 2023:** I filed a motion for a temporary restraining order to vacate the arrest warrant.
10. **October 10, 2023:** I presented the motion to Judge Andrea Wood, with oral arguments from both parties.
11. **November 30, 2023:** Oral arguments were held regarding the case’s removal from state court, and Judge Wood scheduled a judgment for January 25, 2024.
12. **January 25, 2024:** The court date was rescheduled to February 2, 2024.
13. **February 2, 2024:** Further oral arguments were held regarding the removal, and Judge Wood scheduled a judgment for February 28, 2024.
14. **February 28, 2024:** The court date was rescheduled to March 13, 2024.
15. **March 13, 2024:** I expressed concern about the arrest warrant to Judge Wood, who scheduled a judgment for April 29, 2024.
16. **April 2, 2024:** A general order transferred my case to Honorable Sunil R. Harjani.
17. **April 15, 2024:** I filed a motion to retain Judge Andrea Wood, arguing she had heard all oral arguments and only needed to enter a judgment.
18. **April 22, 2024:** My motion to retain Judge Wood was denied.
19. **Legal Proceedings**

I had two cases in the Illinois Court of Appeals, both stemming from the same circuit court case number. The first was an appeal of a child support order, and the second was an appeal of Judge Ahern’s judgment regarding college expenses. The Appeals Court designated both cases as related. On September 8, 2022, the child support appeal was dismissed for lack of jurisdiction, as I still had an active claim against Ms. Thompson that needed resolution before the Illinois Court of Appeals could exercise jurisdiction. This reasoning equally applied to the appeal from Ahern’s judgment for college expenses, which was technically over when the child support appeal was dismissed, though it would not be officially dismissed until much later.

I filed a federal complaint on November 10, 2022, and subsequently refiled it on November 29, 2022 **(see docket #1 & 5).** The complaint was primarily motivated by my need for accurate court records to appeal the child support judgment in state court, as well as to obtain a bystander’s report to appeal Judge Ahern’s judgment on college expenses. In the complaint, I allege that the defendants were attempting to sabotage my appeal by withholding these necessary documents. Additionally, I sought several other remedies, including the ability to record online court sessions for the purpose of creating a bystander report, as well as challenging the constitutionality of the state statute on contribution for college expenses. It is important to note that my claims for the court records and bystander reports are separate from my challenge to the constitutionality of the state statute.

During the conference call on February 2, 2023 I had an initial call with Judge Wood. Essentially she expressed her concern for the claims against judge Ahern. Stating that Judge Ahern could not be sued because he has judicial immunity. Essentially, I argued that Ahern did not have Judicial Immunity in this situation. Sense the defendant’s had not responded at this point, I asked her if I could be allowed to provide more information later… Judge Wood also expressed concern about adding Ms. Thompson to the lawsuit, because there was no specific claims against her. As a result, I removed Ms. Thompson from the complaint. **(See Docket # 76)**

On March 6 2023, I filled an amended complaint, arguing…“that “Pulliam v. Allen, 466 US 522 – Supreme Court 1984 establishes that the United States District Courts has jurisdiction to provide injunctive and declaratory relief against a judge. The issue at hand is that Judge Ahern was repeatedly refusing to produce an account for the proceedings so that I could appeal his judgment… Without the bystanders report, I am unable to effectively appeal.” **(Docket # 10 page 14).**

During the conference call on April 5th 2023, I argued that my case should not be dismissed because I was seeking declaratory and Injunctive relief and that Ahern does not have judicial immunity against those claims. I also argued that my complaint was mostly about getting the necessary documents for the state court appeal. **(see docket # 83)**

On May 8th 2023, the defendant’s filed a motion to dismiss my complaint... In that motion they indicated that they understood that I was seeking declaratory and Injunctive relief stating that **“Plaintiff seeks declarative and injunctive relief against Judge Ahern” (Docket # 21 page 1)**

During a conference call on June 13, 2023, Judge Wood informed me that all defendants needed to be named in my complaint. On August 10, 2023, I confirmed that all defendants had been named in an amended complaint. However, I discussed with Judge Wood the possibility of severing Judge Ahern from the other defendants because Ahern had already responded to my complaint with a motion to dismiss, and Judge Wood indicated she was close to entering a judgment. Serving the amended complaint to the other defendant (Gretchen Peterson) would have allowed Ahern to file a new motion to dismiss, further delaying Judge Wood’s judgment and potentially causing us to lose the progress made thus far. This would effectively restart the case. After discussing this with Judge Wood, I was led to believe that it was acceptable to refile the complaint and serve the other defendant after Judge Wood had entered a judgment for Ahern **(see Docket #79 & 80)**

During the conference call on February 8, 2024, there was further discussion about my claim against Judge Ahern. Judge Wood acknowledged that my claim primarily concerned my ability to appeal Ahern’s judgment in state court. To summarize Judge Wood’s remarks, she noted that **(“it may be impossible to appeal Ahern’s orders without relief.”)** I further argued that, with respect to Ahern, my federal complaint was aimed at obtaining the necessary documents to pursue an appeal in state court, not at challenging Ahern’s judgment on college expenses in federal court. I also alleged that county clerks were intentionally altering documents to sabotage my appeal **(see Docket #77).**

During the conference call on November 30th, 2023 Judge Wood said that she would enter a judgment on January 25th 2024. However, a judgment was never entered, and the case was eventually transferred to Judge Harjani. **(see Docket # 82)**

Soon thereafter, my case was transferred to District Court Judge Harjani, who subsequently dismissed my complaint. Judge Harjani’s reasoning for his dismissal was threefold: first, that Ahern was entitled to judicial immunity; second, that my claims were barred by federal abstention doctrines as set forth in J.B. v. Woodard; and third, that I failed to properly serve the Cook County Clerks **(see Docket #61)**.

On August 5th 2024, I was forced to liquidate my retirement account. On August 14th 2024 I paid the judgment for college expenses to Ms. Thompson.

**SUMMARY OF ARGUMENT**

I argue that Judge Harjani’s dismissal of my case was improper due to a misinterpretation of my claims. His orders suggest that I am attempting to rectify past wrongs and that Judge Ahern is shielded by judicial immunity. However, Ahern is not being sued for due process violations or extrinsic fraud. The sole claim against Ahern concerns the bystander’s reports. My complaint explicitly seeks declaratory and injunctive relief, not retrospective redress. In addition to the clarity of my complaint, there have been multiple conversations where Judge Wood and the defendants acknowledged my request for such relief. Furthermore, under the law, a judge does not have judicial immunity from prospective relief.

I also allege that Judge Ahern has repeatedly refused to provide an accurate record of the proceedings, which is necessary for appealing his judgment. This refusal is not only improper but also unlawful. Moreover, I seek declaratory and injunctive relief to facilitate an appeal of a child support judgment. I allege that the Cook County clerks have repeatedly provided altered documents, despite being ordered to supply accurate records for the appeal process.

Judge Harjani’s decision relied on **Woodard, 997 F.3d at 722.** I argue that a cursory review of Woodard reveals that **“Abstention from the exercise of federal jurisdiction is the exception, not the rule.”** In fact, Woodard supports this court’s duty to grant relief because **“When a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is its duty to take such jurisdiction.” (\*Woodard\*, 997 F.3d at 722).**

Woodard does not apply to my claims against Ahern because I am not seeking a federal court judgment to impact ongoing state proceedings. Unlike Edwin in Woodard, my proceedings in the court of domestic relations have concluded. The only remaining matter is my right to appeal, for which I require the bystander’s report. Granting injunctive and declaratory relief in this instance would not interfere with state court domestic relations proceedings; it would simply enable me to exercise my right to appeal. Even if ongoing proceedings existed in the Circuit Court of Cook County, a federal judgment would not affect them. A federal judgment concerning Ahern would be limited to the bystander’s report and would not impact issues such as contribution for college expenses or any other matters pending in state court.

Moreover, Woodard is inapplicable because, unlike the plaintiff in Woodard, I never had a trial. In Woodard, the plaintiff Edwin had notice and an opportunity to be heard, participating in state court hearings. In contrast, my case lacked proper notice, an opportunity to be heard, and a trial altogether.

Judge Harjani also dismissed my claim due to a perceived failure to effectuate service on the unnamed Cook County clerks. I argue that this decision was based on Harjani’s limited access to all relevant information. There was an extensive conversation with Judge Wood regarding the service of the county clerks, resulting in the identification of the specific clerk to be served. However, it was decided not to serve them at that time, as the case had already made significant progress, and serving them would have disrupted that progress. The plan was to amend the complaint and serve the named Cook County clerks after a judgment on the claims against Ahern. This approach was chosen because, while related, the claims against Ahern and the clerks were distinct.

Finally, Judge Harjani dismissed my claim against Attorney General Kwame Raoul. In truth, I never intended to allege that Attorney General Raoul personally engaged in any actions that led to him being sued. My intention was simply to provide notice to him as required by law. The constitutional challenge was directed at Ms. Thompson; however, I was admonished to remove Ms. Thompson from the case. In my complaint, I argued that the statute 750 ILCS 5/513 is unconstitutional due to its vagueness and its denial of the right to a trial by jury. I assert that I have not engaged in any actions that would make me liable to be sued, nor have I neglected any duties that could have led to such a lawsuit. Despite this, the statute permitted a lawsuit against me without providing a trial by jury. Furthermore, I was not given proper notice of the proceedings. An investigation revealed that the notice I would have received contained incorrect Zoom information.

**ARGUMENT**

**Misinterpretation of the Relief Sought**

**and the Misapplication of Judicial Immunity**

Judge Harjani misinterpreted the nature of my complaint. He stated, **“Plaintiff’s ten-count complaint alleges due process violations and extrinsic fraud against Judge Ahern… Judge Ahern is afforded absolute judicial immunity for the actions in the Amended Complaint and must be dismissed.” (See Docket #61).** This interpretation wrongly suggests that I am attempting to address past actions taken by Judge Ahern, which would indeed be barred by judicial immunity. However, this is not the case. I am not seeking to rectify past wrongs; rather, I am pursuing declaratory and injunctive relief—a fact that has been made clear throughout these proceedings.

For instance, on February 2, 2023, the issue of Judge Ahern’s immunity was specifically addressed, where I clarified that my claim seeks prospective relief, not retrospective correction of Ahern’s actions. **(See Docket #76)**. Furthermore, on March 6, 2023, I amended my complaint, citing **\*Pulliam v. Allen\*, 466 U.S. 522 (1984), which affirms that federal courts have jurisdiction to grant injunctive and declaratory relief against a judge when appropriate (See Docket #10, page 14)**. On April 5, 2023, I explicitly argued against the dismissal of my case, reiterating that I seek declaratory and injunctive relief, for which Judge Ahern does not have judicial immunity. **(See Docket #83)**. Even the defendants themselves acknowledged this in their own filings, stating that “Plaintiff seeks declarative and injunctive relief against Judge Ahern.” **(See Docket #21, page 1).**

Moreover, Judge Wood, in her remarks, underscored the practical significance of my claims, noting that it might be impossible to appeal Ahern’s orders without the relief sought. **(See Docket #77).** This acknowledgment emphasizes the necessity of the relief I am pursuing, which is primarily concerned with securing an accurate account of the state court proceedings—a bystander’s report that Judge Ahern has repeatedly refused to provide. Without this report, I am effectively barred from appealing Ahern’s judgment in the Illinois Court of Appeals.

Given these facts, I am puzzled by Judge Harjani’s conclusion that I am somehow attempting to correct past wrongs committed by Judge Ahern. If his judgment is based on the belief that judicial immunity shields Ahern from declaratory and injunctive relief, this would be a misapplication of the law. The precedent set by **\*Pulliam v. Allen\*** clearly establishes that a judge may be subject to prospective relief, such as the relief I am seeking. According to state law, I am responsible for obtaining the bystander’s report and an accurate record of the proceedings. I will automatically lose if I attempt to appeal without these documents. **(See Docket #26, page 8).** My Section 1983 complaint was filed precisely because there is no other avenue available to obtain the bystander’s report necessary for my appeal.

Given the denial of my ability to obtain a bystander’s report, which is essential for my appeal, I respectfully request that this appellate court issue a declaratory judgment affirming my right to the bystander’s report. Such a judgment would clarify the legal obligation of the state court to provide the report, ensuring that I can effectively exercise my right to appeal.

**Woodard Does Not Apply to Ahern—If Anything, It Justifies Federal Relief**

On February 8, 2024, a hearing was held before Judge Wood regarding the merits of my case and the jurisdictional issues presented by \*Woodard\*, 997 F.3d at 722. During that hearing, I argued, **“So you’re not making a ruling as it pertains to his judgments in state court as regards to domestic relations. You’re just making a judgment saying, ‘Okay, he has the right to get the bystander’s report so he can appeal** **in state court.’”** I further argued, **“So as it pertains to Ahern, the issue of domestic relations is not even an issue because you’re not making a ruling that’s going to impact domestic relations.” (See Docket #48)**.

In \*Woodard\*, federal courts refused to exercise jurisdiction because the plaintiff was **“seeking a favorable federal court judgment so that he can use that judgment to influence ongoing state court decision making.” (997 F.3d at 722).** I argue that \*Woodard\* does not apply to Ahern. In my claim against Ahern, I am not trying to overturn his judgment for college expenses; I am simply trying to preserve my right to appeal his judgment. A federal order granting relief would have absolutely no influence on Ahern’s judgment for college expenses. According to the **Constitution of the State of Illinois, Article VI, Section 6,** individuals have a right to appeal. My right to appeal was never a question put before Ahern to decide. However, by refusing to provide the bystander’s report, Ahern effectively prevents me from appealing. These circumstances are completely different from those in \*Woodard\*, heree the plaintiff was seeking a judgment that would influencing ongoing proceedings in the court of domestic relations.

Moreover, \*Woodard\* does not apply because the plaintiff in that case had several ongoing proceedings in the Circuit Court of Domestic Relations. Currently, I do not have any ongoing proceedings in the Circuit Court of Domestic Relations. Without jurisdiction, Judge Ahern entered an order for body attachment until a bond was paid to Ms. Thompson. However, Ms. Thompson received payment on August 14, 2023, which resolved the bond. I argue that even if she had not received the payment, a judgment for relief from this court still would not have impacted any state court proceedings. Additionally, the defendants have never specifically argued how a judgment in this case would influence any state court proceedings; they are simply trying to apply \*Woodard\* generically to my case.

Furthermore, \*Woodard\* does not apply because, unlike the plaintiff in \*Woodard\*, I was not given proper notice of the proceedings, and I never had a trial. In fact, I never participated in the case as it pertains to the judgment and award of college expenses. Judge Harjani insinuates that I somehow participated, stating that Ahern “held motion hearings and reviewed the exhibits and motions filed on the docket. This included denying Plaintiff’s motion to substitute Judge Ahern for cause.” This gives the illusion that there was some participation on my part. The reality is that nothing could be further from the truth.

In the first section of my complaint, I explain that I was not given proper notice of the proceedings. I only found out about the proceedings when I attempted to correct the court record. Even then, I was given incorrect Zoom information. A post-investigation revealed that the Zoom information on the notice I was supposed to have received was incorrect. As a result of not receiving proper notice and being given incorrect Zoom information, a default judgment was entered against me by Julie Aimen. (See Docket #10, page 8). Later, Ahern held a hearing to prove the expenses, and I did not participate in that hearing. This is the source of contention and the reason I am requesting the bystander’s report. My original complaint contains an affidavit of the proceeding. In the affidavit, I clearly state that there was no participation on my part **(See Docket #1).** Due to a clerical error, the affidavit was not attached to the amended complaint but was attached to the second amended complaint. **(See Docket #28).**

On the other hand, the plaintiff in \*Woodard\* had extensive participation in his state case. The plaintiff participated in a hearing on October 10, 2018, where the court found that abuse had occurred and entered a protective order for supervised parenting time. The plaintiff participated again on November 30, 2018, when the court suspended Edwin’s parenting time until he completed anger management counseling. Around December 21, 2018, Edwin was permitted to have visitation at the therapist’s office. At an unspecified court date, the plaintiff participated in a hearing to restore emergency parenting time, during which the court ruled that Edwin could not rely on statements made by his child in counseling. The plaintiff participated in another hearing in February 2019, where a judgment was entered to dissolve the marriage and maintain Edwin’s termination of parenting time until he completed counseling. In 2019, the Illinois Appellate Court largely affirmed the judgment but remanded the domestic relations court for final judgment on parenting time. Edwin filed his 42 U.S.C. § 1983 complaint sometime after and before final judgment.

As is evident, the plaintiff had extensive participation in his case. He eventually appealed his case, and it was remanded back to the Circuit Court for a final judgment on parenting time. It was at this point that he filed his § 1983 claim, and it was determined that he was seeking a federal judgment to impact his claim for parenting time. I argue that my circumstances are dramatically different because I am simply trying to preserve my appeal. A federal judgment for the bystander’s report would not have any impact on any state court proceedings.

If anything, I would argue that \*Woodard\* actually provides reasoning for this court to grant relief, as \*Woodard\* states that abstention is not the rule but the exception.

**Impact of Judicial Reassignment on Service Effectuation**

There was no failure to effectuate service in my case. The delays and complications arose from the last-minute reassignment of my case from Judge Wood to Judge Harjani, who dismissed my claims against the Cook County Clerks without the benefit of knowing how the issue evolved under Judge Wood’s oversight.

The service of claims to the Cook County Clerks was thoroughly discussed with Judge Wood. On June 13, 2023, I informed Judge Wood that I was unable to issue a summons to the Cook County Clerks. Judge Wood advised that I should name them in my amended complaint. I expressed concern about delaying her ruling, stating, **“I was thinking that maybe if we could do that after your ruling simply because – it’s sort of a separate defendant, and your ruling dismissing the complaint against Ahern and Raoul wouldn’t necessarily affect the clerks” (see Docket #79).** Judge Wood indicated that a ruling was imminent, and I was concerned that filing an amended motion would delay this ruling. Given the straightforward nature of the issue with Ahern—his refusal to provide a bystander’s report essential for my appeal—I did not want to risk delaying the ruling. Consequently, I eventually decided to file the amended complaint naming Gretchen Peterson **(see Docket #28).**

This issue resurfaced during a status hearing on August 10, 2023. Judge Wood explained, **“If I grant your motion for leave to file an amended complaint, the amended complaint is a new complaint. Under the rules, they do get to file a new response” (see Docket #80).** Again, to avoid delaying the ruling on Ahern, I chose to withdraw the amended complaint. Judge Wood assured me, **“For the amended complaint, after I rule on the motion to dismiss, you can file a motion for leave to amend.”** I anticipated a prompt ruling and intended to file the amended complaint and serve Gretchen Peterson at that time. However, Judge Wood’s ruling never materialized, and the case was transferred to Judge Harjani, who subsequently dismissed all my claims.

The issue with the Cook County Clerks remains unresolved. As stated in my complaint, I allege that the clerks are altering and omitting critical information from court records **(see Docket #28, page 17).** These records are crucial for appealing the child support judgment in the Illinois Court of Appeals. According to state law, the responsibility for ensuring accurate records are submitted to the appeals court lies with the appellant. **(“…The appellant… has the responsibility to present a sufficiently complete record to this court, including transcripts, to support his claims of error on appeal. Foutch, 99 Ill. 2d at 391–92, 76 Ill.Dec. 823, 459 N.E.2d 958.”) (see Docket #26 page 8 ).** I argue that using the records provided by the clerks would automatically result in the loss of my appeal. Additionally, I allege that the clerks intentionally withhold these records until the last minute, depriving me of the opportunity to review and verify that the records are free of alterations and omissions.

Although there was brief discussion about filing a separate claim against the Cook County Clerks, I did not believe this was appropriate. While the claims against Ahern and the clerks are separate, they are interrelated. Both claims involve efforts to prevent me from appealing my cases. Despite already being granted a state court order for accurate records, the clerks continue to alter and omit critical information. I still require accurate records from the Cook County Clerks to proceed with my appeal. Therefore, I respectfully request that this court allow me to refile my amended complaint naming Gretchen Peterson so that my claim can be properly heard.

**The Lack of Jurisdiction in Judge Ahern's State Court Proceedings**

Ahern did not have jurisdiction when he entered his rulings in state court. However, I must point out that Ahern is not being sued for the lack of jurisdiction; he is only being sued for the bystander’s report. Nonetheless, his lack of jurisdiction is relevant as it provides crucial context. Harjani ruled that 'Judge Ahern appeared to act squarely within his jurisdiction, waiting until after the Illinois Appellate Court dismissed the appeal to continue the case and hold Plaintiff in contempt' **(see Docket #62, page 4)**. I argue that merely waiting for my appeal to be dismissed does not resolve Ahern’s jurisdictional issues. In my complaint, I presented several reasons why Ahern did not have jurisdiction **(see Docket #10, pages 8, 9)**. First of all, Ahern lacked personal jurisdiction. I argued that I was not given proper notice. Ahern never responded to this claim… I never received notice of the proceedings, and upon investigation, I discovered that the notice for the proceedings contained incorrect Zoom information.

Ahern lacked both personal jurisdiction and subject matter jurisdiction because the case was in the Illinois Appellate Court before he issued his judgment **(see Docket #10, pages 10, 11)**. Most importantly, in my complaint, I argued that Judge Ahern lacked subject matter jurisdiction because Ms. Thompson never alleged that there was a real controversy **(see Docket #10, pages 13, 14, 21).** I contend that Ms. Thompson cannot allege a controversy because I have never refused to help pay for my son's college expenses, nor have I ever had a dispute with her or my son regarding these expenses. It is well settled that a controversy must exist in order for a court to have jurisdiction. The necessity of a justiciable controversy as a prerequisite for judicial action is a cornerstone of both federal and state court systems. This requirement ensures that courts do not engage in advisory opinions or resolve hypothetical disputes but instead adjudicate actual, concrete disputes between parties.

**Improper Dismissal of My Claim Against the Unconstitutional State Statute**

In my complaint, I argued that the state statute 750 ILCS 5/513, known as the law for Contribution for College Expenses, is unconstitutional **(see Docket #10, pages 18, 20)**. There was never an intention to allege that Attorney General Raoul did anything specifically to make him personally liable to be sued. My argument was that the Attorney General was simply being provided notice in accordance with Federal Rule of Civil Procedure 5.1(a)(1)(B), which requires notification of an Attorney General when challenging state laws **(see Docket #26, page 27).** The issue is that I have not done anything that would justify being sued. There has been no neglect on my part that would have caused me to be sued. However, I find myself being sued without having received proper notice or the opportunity to be heard. An arbitrary judgment has been entered against me, depriving me of property and my rights.

The Amended Complaint does not specifically allege any actions by Attorney General Raoul in enforcing the Illinois Marriage and Dissolution of Marriage Act. My arguments are not based on any specific actions by the Attorney General but rather on the statute’s constitutionality and its enforcement mechanisms. The focus is on the statute itself, not on individual actions. This claim does not apply to Judge Ahern.

Furthermore, my arguments align with the principles established **in Ex Parte Young. In Ex Parte Young, 209 U.S. 123 (1908), (“ the Supreme Court held that federal courts have the authority to issue injunctions against state officials to enforce constitutional rights.”)** I argue that injunctions may be issued even when the challenge is not directed at specific actions but at the constitutionality of state laws.

I argue that the Eleventh Amendment does not preclude this court from adjudicating the constitutionality of the statute and providing appropriate relief. My arguments focus on the statute's constitutionality and seek relief in the form of a declaratory judgment and injunction against its use. This court’s authority to issue such relief is consistent with the principles articulated in Ex Parte Young and is necessary to prevent the unconstitutional application of the statute.

In addition to the statute being vague and depriving me of the right to a jury trial, it also violates my substantive due process rights under the 14th Amendment **(see Docket #26, page 22). Substantive due process provides heightened protection against government interference with certain fundamental rights and liberty interests.** **Washington v. Glucksberg, 521 U. S. 702, 719 (1997).** I contend that the statute infringes upon my substantive due process rights in two distinct ways. First, it deprives me of my finances, a fundamental right, as the statute compels me to surrender substantial sums of money. Second, it violates my parental rights, which the Supreme Court has recognized as **"basic civil rights far more precious than property rights" (Stanley v. Illinois, 405 U.S. 645, 1972).** Neither Ms. Thompson nor my son consulted with me regarding his college expenses, and there was never a dispute over these expenses. This exclusion denies me the opportunity to participate in decisions about my son's financial future. The statute enables Ms. Thompson to sue me without cause, placing the decision of my son's college expenses in the hands of Judge Ahern, a complete stranger, who can arbitrarily decide on these matters without considering the impact on my family relationships. I argue that this statute clearly violates substantive due process by undermining my familial role and allowing the unjust taking of my property without proper cause. As the Supreme Court has stated, **("where the right infringed upon is among those rights considered 'fundamental' constitutional rights, the challenged statute is subject to strict scrutiny analysis") Village of Lake Villa v. Stokovich, 211 Ill.2d 106, 122, 284 Ill.Dec**. I therefore request that this court apply strict scrutiny and find that the statute deprives me of substantive due process.

**CONCLUSION**

Judge Ahern is being sued for injunctive and declaratory relief, and he does not possess judicial immunity in this context. The bystander's report is crucial for my appeal of his judgment. I contend that the principles established in Woodard are not applicable here, as granting relief against Ahern would not undermine the state court proceedings. Given that Ahern’s bond has been paid, no ongoing state court proceedings would be affected by a judgment for declaratory relief.

The Cook County Clerks are being sued for allegedly altering state court documents, which impacts the accuracy of records necessary for my state court appeal. I did not fail to serve the Cook County Clerks (Gretchen Peterson), and this issue has been thoroughly addressed. Judge Harjani, who was assigned to my case at the last minute, dismissed my claim without fully understanding the development of the issue.

Attorney General Raoul is not being sued for any direct actions but was merely provided notice, as required by Federal Rule of Civil Procedure 5.1(a)(1)(B). I argue that this court has jurisdiction to grant injunctive and declaratory relief to prevent the enforcement of unconstitutional statutes.

**RELIEF SOUGHT**

**WHEREFOR I PRAY:**

1. **Any remedy that this court can provide**
2. **That this court provide injunctive and declaratory relief so that I may obtain the bystanders report from Ahern.**
3. **That this court reinstate my claim against the Cook County Clerks (Gretchen Peterson), so that I may serve them.**
4. **That this court declare that the Illinois statute 750 ILCS 5/513 (“Contribution for College expenses”) is unconstitutional as applied.**
5. **That this court performs a strict scrutiny analysis and find that the Illinois statute 750 ILCS 5/513 deprives me of substantive due process.**

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvthompson@gmail.com

Signature of Plaintiff

Date of Signing.

**APPENDIX A**

**Judge Harjani’s Dismissal Order**

**APPENDIX B**

**Current Version of the**

**Illinois Statute 750 ILCS 5/513 (“Contribution for College Expenses”)**

(750 ILCS 5/513) (from Ch. 40, par. 513)

Sec. 513. Educational expenses for a non-minor child.

(a) The court may award sums of money out of the property and income of either or both parties or the estate of a deceased parent, as equity may require, for the educational expenses of any child of the parties. Unless otherwise agreed to by the parties, all educational expenses which are the subject of a petition brought pursuant to this Section shall be incurred no later than the student's 23rd birthday, except for good cause shown, but in no event later than the child's 25th birthday.

(b) Regardless of whether an award has been made under subsection (a), the court may require both parties and the child to complete the Free Application for Federal Student Aid (FAFSA) and other financial aid forms and to submit any form of that type prior to the designated submission deadline for the form. The court may require either or both parties to provide funds for the child so as to pay for the cost of up to 5 college applications, the cost of 2 standardized college entrance examinations, and the cost of one standardized college entrance examination preparatory course.

(c) The authority under this Section to make provision for educational expenses extends not only to periods of college education or vocational or professional or other training after graduation from high school, but also to any period during which the child of the parties is still attending high school, even though he or she attained the age of 19.

(d) Educational expenses may include, but shall not be limited to, the following:

(1) except for good cause shown, the actual cost of

the child's post-secondary expenses, including tuition and fees, provided that the cost for tuition and fees does not exceed the amount of in-state tuition and fees paid by a student at the University of Illinois at Urbana-Champaign for the same academic year;

(2) except for good cause shown, the actual costs of

the child's housing expenses, whether on-campus or off-campus, provided that the housing expenses do not exceed the cost for the same academic year of a double-occupancy student room, with a standard meal plan, in a residence hall operated by the University of Illinois at Urbana-Champaign;

(3) the actual costs of the child's medical

expenses, including medical insurance, and dental expenses;

(4) the reasonable living expenses of the child

during the academic year and periods of recess:

(A) if the child is a resident student attending

a post-secondary educational program; or

(B) if the child is living with one party at that

party's home and attending a post-secondary educational program as a non-resident student, in which case the living expenses include an amount that pays for the reasonable cost of the child's food, utilities, and transportation; and

(5) the cost of books and other supplies necessary to

attend college.

(e) Sums may be ordered payable to the child, to either party, or to the educational institution, directly or through a special account or trust created for that purpose, as the court sees fit.

(f) If educational expenses are ordered payable, each party and the child shall sign any consent necessary for the educational institution to provide a supporting party with access to the child's academic transcripts, records, and grade reports. The consent shall not apply to any non-academic records. Failure to execute the required consent may be a basis for a modification or termination of any order entered under this Section. Unless the court specifically finds that the child's safety would be jeopardized, each party is entitled to know the name of the educational institution the child attends.

(g) The authority under this Section to make provision for educational expenses terminates when the child either: fails to maintain a cumulative "C" grade point average, except in the event of illness or other good cause shown; attains the age of 23; receives a baccalaureate degree; or marries. A child's enlisting in the armed forces, being incarcerated, or becoming pregnant does not terminate the court's authority to make provisions for the educational expenses for the child under this Section.

(h) An account established prior to the dissolution that is to be used for the child's post-secondary education, that is an account in a state tuition program under Section 529 of the Internal Revenue Code, or that is some other college savings plan, is to be considered by the court to be a resource of the child, provided that any post-judgment contribution made by a party to such an account is to be considered a contribution from that party.

(i) The child is not a third party beneficiary to the settlement agreement or judgment between the parties after trial and is not entitled to file a petition for contribution. If the parties' settlement agreement describes the manner in which a child's educational expenses will be paid, or if the court makes an award pursuant to this Section, then the parties are responsible pursuant to that agreement or award for the child's educational expenses, but in no event shall the court consider the child a third party beneficiary of that provision. In the event of the death or legal disability of a party who would have the right to file a petition for contribution, the child of the party may file a petition for contribution.

(j) In making awards under this Section, or pursuant to a petition or motion to decrease, modify, or terminate any such award, the court shall consider all relevant factors that appear reasonable and necessary, including:

(1) The present and future financial resources of

both parties to meet their needs, including, but not limited to, savings for retirement.

(2) The standard of living the child would have

enjoyed had the marriage not been dissolved.

(3) The financial resources of the child.

(4) The child's academic performance.

(k) The establishment of an obligation to pay under this Section is retroactive only to the date of filing a petition. The right to enforce a prior obligation to pay may be enforced either before or after the obligation is incurred.