**In Re: David Martin**

**PETITION FOR WRIT OF MANDAMUS**

**TABLE OF CONTENTS**

Parties to Proceeding………………………………………………

Jurisdiction…………………………………………………………..

Relief sought………………………………………………...………

Necessary facts……………………………...…………………...…

Issues presented……………………………………………...…….

Summary of Case Dismissal………………………………...…….

Reasons why the writ should issue………………………..……...

Copy of amended complaint……………………………………….

Copy of order dismissing complaint……………………………….

Copy of amended motion to vacate……………………………….

**PARTIES TO THE PROCEEDING**

**1. 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.gov**](file:///G:\My%20Drive\Martin%20V%20Thompson\2022%20and%202023%20federal%20court\amended%20complaint\mary.johnston@ilag.gov)

**2. 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**

**E-Mail Address:** [**mary.johnston@ilag.gov**](file:///G:\My%20Drive\Martin%20V%20Thompson\2022%20and%202023%20federal%20court\amended%20complaint\mary.johnston@ilag.gov)

**JURISDICTION**

Jurisdiction is conferred byTitle 28 U.S.C.A. § 1651, and Rule 21(a) of the Federal Rules of Appellate Procedure (Fed. R. App. P. 21(a)).

**“A mandamus petition can provide a litigant an opportunity to challenge some unappealable orders in exceptional circumstances, In re Hudson, 710 F.3d 716, 717 (7th Cir. 2013); In re Barnett, 97 F.3d 181 (7th Cir. 1996); In re Rhone-Poulenc Rorer, Inc., 51 F.3d 1293, 1294 (7th Cir. 1995), and to confine a judge or other official to his or her jurisdiction”. In re Page, 170 F.3d 659, 661 (7th Cir. 1999).** On November 11th 2022, I filed a removal petition in the U.S. District Court. However, Judge Ahern continued to conduct court room proceedings in the circuit court of cook county. On August 23rd 2023, Judge Ahern issued a warrant for my arrest. I argue that the arrest warrant is unlawful and in violation of the removal statute. **“1446 expressly provides that upon removal ‘the State court shall proceed no further unless and until the case is remanded.’ 28 U.S.C. Sec. 1446(e). Hence, after removal, the jurisdiction of the state court absolutely ceases and the state court has a duty not to proceed any further in the case. Steamship Co. v. Tugman. 106 U.S. 118, 122, 1 S.Ct. 58, 60, 27 L.Ed. 87 (1882).** After being informed of the removal, Judge Ahern continued to schedule and conduct court room proceedings. On September 14th 2023, I filed a motion for a temporary restraining order requesting that the arrest warrant be vacated. On October 10th 2023, I presented the motion to Judge Andrea Wood and both the defendant’s and I gave oral arguments over the matter. On November 30th, 2023 Judge Wood agreed that the case was properly removed, and that she would enter a judgment on January 25th 2024. However, when January 25th came, the court date was stricken and reset for February 2nd 2024. When the next court date came, Judge wood again agreed that the case was properly removed, and said that she would enter her judgment on February 28th 2024. However, on February 28th, the court date was stricken and reset for March 13th 2024. On the March court date, I expressed to Judge wood that I was concerned about the warrant for my arrest. She said that she would enter her judgment on April 29th 2024. However, on April 2nd 2024 a general order was issued, and my case was transferred to the Honorable Sunil R. Harjani. I argue that this has become an “exceptional circumstance”. I am currently unemployed and a potential employer may not hire me because of the current warrant for my arrest. Before transferring the case… there wasn’t much left to do but enter a decision. Judge Wood is intimately familiar with this case and in fact, on multiple occasions, she has agreed that the case was properly removed. Judge Wood’s familiarity of this case places her in the position to quickly resolve all the claims between me and the defendant Ahern. Transferring this case now may cause me to potentially loose employment opportunities. It would also force me to unnecessarily relitigate this case with a new judge. Judge Wood can easily resolve the issue regarding the unlawful arrest because she has already agreed that the case has been properly removed. In addition, Judge Wood is well briefed on all the issues and she is better suited to resolve all the issues between me and defendant Ahern. I ask that this court stop the transfer, and order Judge Wood to enter her judgment to vacate the arrest warrant.

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 the following two statutes: Uniform Commercial Code section 2-201- Statute of Frauds, and Uniform Commercial Code section 1—203. Obligation of good faith

**RELIEF SOUGHT**

I am seeking:

1. That the order transferring my case from Judge Andrea Wood to Sunil Harjani be rescinded.
2. That Judge Andrea wood issue an order to vacate the unlawful warrant for my Arrest.

**FACTS**

1. On November 11th 2022, I filed a removal petition in the U.S. District Court. However, Judge Ahern continued to conduct court room proceedings in the circuit court of cook county.
2. On August 23rd 2023, Judge Ahern issued a warrant for my arrest.
3. On September 14th 2023, I filed a motion for a temporary restraining order requesting that the arrest warrant be vacated.
4. On October 10th 2023, I presented the motion to Judge Andrea Wood and both the defendant’s and I gave oral arguments over the matter.
5. On November 30th, 2023 Judge Wood agreed that the case was properly removed, and that she would enter a judgment on January 25th 2024.
6. On January 25th 2024, the court date was stricken and reset for February 2nd 2024.
7. On February 2nd 2024. Judge wood again agreed that the case was properly removed, and said that she would enter her judgment on February 28th 2024.
8. On February 28th 2024th, the court date was stricken and reset for March 13th 2024.
9. On March 13th 2024, I expressed to Judge wood that I was concerned about the warrant for my arrest. She said that she would enter her judgment on April 29th 2024.
10. On April 2nd 2024 a general order was issued, and my case was transferred to the Honorable Sunil R. Harjani.

**THE ISSUES PRESENTED FOR REVIEW**

1. Whether or not Judge Andrea Wood should enter a decision to vacate the unlawful arrest warrant.
2. Whether or not Judge Andrea Wood should retain the case.

**SUMMARY OF THIS CASE IN GENERAL**

**A WRIT OF MANDAMUS SHOULD BE GRANTED**

**FOR THE FOLLOWING REASONS**

A Writ of Mandamus should be granted because the US district court does have jurisdiction. In this claim, I am alleging that I was denied substantive due process. I alleged that the defendants acted in bad faith. They used extorsion and other dishonest tactics in an attempt to force me into a contract. However, the evidence will show that their contract is void. The defendants knew or should have known this. Instead of acknowledging this, the defendants decided to double down and collect on a void contract. The tactics the defendants used to collect, resulted in additional constitutional violations. A Writ of Mandamus should be granted to stop the continuing abuse of my constitutionally protected rights.

In addition, I argue that my case should not have been dismissed. I filed an amended motion on 12/21/20. That motion explains why the order dismissing my case should be vacated. I will summarize those reasons here.

**Response to “violated Federal Rule of Civil Procedure 8”**

In response I would say that I have provided detailed facts and those facts support the claims that I have made in my complaint. According to **Bell Atlantic Corp. v. Twombly, 550 US 544 - Supreme Court 2007 "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.”**  I believe I can prove every fact I provided in my complaint and those facts reasonably support my claims. In addition, my claim should not be dismissed because **“One objective of Rule 8 is to decide cases fairly on their merits, not to debate finer points of pleading where opponents have fair notice of the claim or defense. See Fed.R.Civ.P. 8(e) ("Pleadings must be construed so as to do justice."). Generally, if a district court dismisses for failure to state a claim, the court should give the party one opportunity to try to cure the problem, even if the court is skeptical about the prospects for success”. See Foster, 545 F.3d at 584.** In this situation I was not given the opportunity to correct a “failure to state a claim”. However, I believe that I have a meritorious complaint. I think that my pleading was not construed as to do justice. My complaint was dismissed for not providing a short and plain statement showing that I am entitled to relief. Here the defendants have a detailed list of facts and claims showing that I am entitled to relief. I believe this is more than enough to give the defendants a fair notice.

**Response to “redress in connection with state court proceedings from parties who either are not state actors or are immune from suit”.**

In response, I would say that my complaint does not depend on MS. Thompson. My complaint is based on the government’s actions, and that of State Court Judges. While my complaint does not depend on Ms. Thompson, I do allege that she was a State actor. According to **Skinner v. Railway Labor Executives' Assn., 489 US 602 - Supreme Court 1989, (“The fourth amendment does protect against intrusions if the private party acted as an instrument or agent of the government”).** In this situation, I believe Ms. Thompson acted as both an instrument and agent of the government. However, my complaint is not dependent on MS. Thompson. I believe my complaint should proceed with or without MS. Thompson. As far as state court judges are concerned, **(“Judicial immunity does not extend to injunctive and declaratory relief under a section 1983”) Pulliam v. Allen, 466 US 522 - Supreme Court 1984.** Here, I am seeking Injunctive relief against judge Mackoff. I am also seeking declaratory relief against both Judge Mackoff and Judge Trew.

**Response to the missing consumer reporting agency in my complaint.**

In the jurisdiction section, I stated that this action is brought pursuant to the **“Fair Credit Reporting Act 15 U.S.C § 1681, subsection 618 Jurisdiction of courts. “An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy.”** In the statement of fact’s I provided that “on or about June 1, 2019 The Illinois Department of Health Care and Family Services reported child support arrearages to my Experian credit report.”… In count 8 of my complaint, I stated that “The defendants posted child support arrearages to my Experian credit report”. Experian is one of the top three credit reporting agencies. The other two are Transunion, and Equifax. I did not add this to my complaint, but the government agencies also added child support arrearages to my TransUnion and Equifax credit report as well. I was able to remove the child support arrearages from TransUnion and Equifax.

**Response to “the government may provide any information on the failure of the consumer to pay overdue support”**

In response to this, I would like to point out that the defendants claim is based on a violation of substantive due process and an unsigned contract. As argued the defendants unnecessarily violated my basic civil rights. They then attempted to use extortion to get me to sign a contract. However, I never signed the contract and no one signed it on my behalf. To make matters worse, the contract requires the signature of the hearing officer, but he himself did not sign the contract. Instead he admitted that he did not have jurisdiction. Enforcing such a contract would be barred by the Uniform Commercial Code section 2-201- Statute of Frauds. Worse of all, the attempt to negotiate the contract was done in bad faith. I allege that the defendants attempted to negotiate a contract with me, while my son was kidnapped.

**Response to “complaint is barred by Rooker-Feldman because**

**it seeks review of the State court orders relating to parental rights”**

In response Rooker-Feldman does not apply for several reasons. first it does not apply to claims involving substantive due process. A substantive due process claim **“bars certain arbitrary government actions "regardless of the fairness of the procedures used to implement them.” Daniels v. Williams, 474 U. S. 327, 331 (1986).** The issue here is not one of fairness and procedures, but whether or not the government should have been allowed to interfere with my basic civil rights. In **Skinner v. Switzer, 562 U.S. 521 (2011) it was found that (“A state-court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action”). See, e.g., Feldman, 460 U. S., at 487.**

Second, there has not been a final judgment in state court, and the Rooker-Feldman doctrine does not apply to pending litigation. **“RookerFeldman is not triggered simply by the entry of judgment in State court. This Court has repeatedly held that the pendency of an action in the state court is no bar to proceedings concerning the same matter in the Federal court having jurisdiction.” McClellan v. Carland, 217 U. S. 268, 282 (1910).** There has not been a final judgment in state court.

Third, I am not seeking a review of any state court orders relating to parental rights. As a matter of fact, there are no state court orders relating to parental rights.

Forth, the Rooker-Feldman Doctrine does not apply to independent claims. In **Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 US 280 - Supreme Court**

**2005, it was found that “If a federal plaintiff "presents some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party ..., then there is jurisdiction”.** My claims against judge Mackoff are independent. I am not asking the court to overturn his judgments… My claims against the state actors are independent as well.

Fifth, the Rooker-Feldman doctrine does not apply to cases alleging extrinsic fraud. **“A plaintiff alleging extrinsic fraud on a state court is not alleging a legal**

**error by the state court; rather, he or she is alleging a wrongful act by**

**the adverse party” Kougasian v. TMSL, Inc., 359 F. 3d 1136 - Court of Appeals, 9th Circuit 2004.**

The Petitioner Prays:

1. A writ of Mandamus to vacate the order terminating my case. This order was entered on entered on October 8th 2020
2. A writ of Mandamus that directs the US District court to acknowledge it has Jurisdiction to hear my complaint and grant relief.
3. An order that would prohibit Judge Myron Mackoff from conducting state court proceedings for the case Illinois DHFS and Arnell Thompson v. David Martin.
4. An order that would prohibit any state court judge from conducting state court proceedings for the case Illinois DHFS and Arnell Thompson v. David Martin.
5. Any other remedies this court can provide.

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvthompson@gmail.com

Signature of Plaintiff

Date of Signing.

COPY OF TRANSFER ORDER