No. 25-1500

IN THE
United States Court of Appeals
For the Fourth Circuit

KATHERINE MOORE, et al.,

Appellants,

v.

MIKE SILVER, in his individual and official capacity

as Director of Training and Services, North Carolina Administrative Office of the Courts,

Appellee.

On Appeal from the United States District Court for the Eastern District of North Carolina

No. 24-cv-00686, Hon. Terrence W. Boyle, District Judge

INITIAL BRIEF OF APPELLANTS

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STATEMENT OF THE FACTS

This case arises from a pattern of systemic judicial misconduct, extrinsic fraud, and constitutional violations occurring across multiple proceedings in the North Carolina family court system. Plaintiffs Katherine Moore, Amy Palacios, and Edyta Hannah Basista, each of whom is a survivor of domestic violence, seek relief from continued abuses perpetrated under color of state law through family court proceedings that have denied them basic due process, equal protection, and statutory rights guaranteed under federal law, including the Violence Against Women Act (VAWA) and Title IV-D of the Social Security Act. The following statement of facts outlines the procedural history and factual background of each Plaintiff's case.

Plaintiff Katherine Moore, a Juris Doctorate with a Masters or Science and a Certified Fraud Examiner, was denied procedural fairness and access to evidence in multiple family court proceedings stemming from custody disputes with Scott Mills. On March 17, 2021, Moore filed a Motion for Change of Venue and a Motion to Dismiss in Nash County, where neither party resided. Although Moore properly noticed the hearing for April 20, 2021, she was instead subjected to a surprise temporary custody hearing held in chambers without her presence. Her attorney maintained an objection, and the initial motions remained unheard for nearly six months.

Although Plaintiff Moore has consistently been denied child support initially by child support enforcement conversation recorded and then by all judges in the case. When Judge Wayne Boyette did enter an order for temporary child support for a fractional amount based on the father's earnings, the judge ordered $100 a month from the Title IV-D federally funded child support to be distributed directly from the father to opposing counsel every month for 10 months from Plaintiff Moore's support. Once that payment was completed, father, Scott Mills no longer paid child support and neither the court nor Nash County child support has required him to do so

now that the remuneration has been paid. The order to divert the child support was not supported by any hearing for attorney's fees, determination that the money was due and owing or inquiry that the amount was reasonable. Opposing counsel simply asked for money in open court and Judge Boyette immediately granted the request at that time. The father knowingly participated in the scheme to distribute the federal funds from the mother to the opposing counsel and when the money was paid, he never paid another dime. For almost 3+ years of his child's life, the father never paid a dime in child support, insurance, or any other kind of support towards the life of the daughter he professes to love so much and to whom Judge Fariss gave full medical and educational authority. During these three years, the father maintained between one and three law firms on retainer at all times and has spent thousand and thousands in legal fees on an action he initiated, but never a dime on child support. Every attorney has been paid timely and none have ever withdrawn due to lack of payment. All of the attorneys and judges know that the father has been paying thousands in legal fees without paying child support of any kind while simultaneously costing Plaintiff Moore legal fees. This type of financial abuse is a well-recognized coercive control tactic and the North Carolina courts have assisted in the facilitation.

Subsequent hearings were marred by improper notice, exclusion of evidence, and factual distortions. Opposing party Scott Mills, was awarded broad visitation while Moore was denied child support without justification. Efforts to discredit Moore's credibility were persistent, with multiple judges issuing demonstrably false findings of fact (in one case, Judge Braun, in her findings of fact even got the names of the parties wrong), including attributing injuries to the wrong party, misstating medical testimony, and improperly excluding medical records and audio recordings. At a DVPO hearing, Judge Julie Bell denied Moore's petition after initially admitting and then *unadmitting* a recording that confirmed a physical assault where the perpetrator

discusses with the treating physician the assault on the mother and baby during pregnancy. Judge Bell also excluded the associated medical documentation.

Moore was further subjected to judicial retaliation following her submission of a judicial complaint, with one judge accusing her of being "delusional" based on her objection to perjured testimony that could later be proven false due to a recovered recording. Logan Hough, Director of Jo Ann's Child Advocacy Center in Rocky Mount, NCgave blatantly false testimony alleging that Plaintiff Moore made a statement that she did not make. The center recorded the encounter. There were two detectives present who had body cameras that also recorded the encounter. Judge William C. Fariss found as a finding of fact, that Plaintiff Moore was 'delusional' because of a statement that she did not make. Plaintiff Moore objected to the testimony as it was being given because it was false and later requested in motions to the court, a copy of the recordings from the body cams and the center. The body cam footage was produced to the judge. Plaintiff Moore has never been allowed to see the recordings. Judge Fariss did, however revise the order and declared subsequently found as a finding of fact that Plaintiff Moore was 'delusional' because she objected. Presumably, Judge Fariss learned the truth upon viewing the recordings. He could not find Plaintiff Moore 'delusional' based on the lie that could be clearly refuted by recorded evidence. Six weeks later, Plaintiff Moore found her own recording of that day proving the testimony was a lie, but Plaintiff Moore has not been given the opportunity to present it in court.

There has not now nor has there ever been a history or even a question as to Plaintiff Moore's mental fitness. Judge William C. Fariss does not have a medical degree or any authority to issue medical opinions from the bench. There are not now nor have there ever been any issues of criminal, legal (outside of present litigation) or substance abuse issues for Plaintiff Moore.

Despite providing incontrovertible *recorded* evidence of abuse, drug exposure, unsecured firearms, tax fraud, perjured bankruptcy filings and medical neglect by the father, Scott Mills, Judge William Farris granted him full custody and medical decision-making authority, overruling Moore's evidence and the child's existing relationships and healthcare access. Lastly, Judge Fariss' primary concern seems to have been vindication of father's name or reputation. In an order that only lists a few findings of fact, Judge Fariss states *twice* (emphasis added) as two separate and distinct findings of fact that abuse 100% never occurred. Plaintiff Moore has the recordings from the medical examination performed at Jo Ann's Place. In minute 43 the medical professional who conducted the exam says that he would never say that abuse 100% did not happen because as an industry standard, a medical professional cannot say that. Judge Fariss did not allow admission of that recording.

In the wake of the father's ability to make all medical decisions, the baby began suffering from a cough and sinusitis in September 2024. On November 1, 2024, Plaintiff Moore, mother, asked the father via email to take the baby to the doctor. The father did not respond to the email nor did he take the child to the doctor. Several weeks went by and the baby's condition worsened. The baby ran high fevers, experienced significant, outward distress with serious coughing fits and was experiencing noticeable hearing impairment. Plaintiff Moore finally took the baby to urgent care where she was diagnosed with acute supprative otitis media and acute pansinusitis. The baby had severe, untreated ear infection and sinus infection for over a month. Plaintiff Moore was given an antibiotic for the baby, but was unable to complete the course of medication because she was to be returned to her father who could not know that she had received medical treatment.

In February 2025, Plaintiff again brought the child to urgent care, where the treating physician expressed concern about the worsening of the child's condition, including pain and hearing impairment. At this point, the baby had experienced an untreated, serve ear and sinus infection for four (4) almost five (5) months. On March 2, 2025, the child suffered a fever approaching 106 degrees Fahrenheit, prompting Plaintiff to call emergency medical services. EMS responded to the home Plaintiff Moore recorded the visit and produced a transcript of the EMS recording to the District Court. Plaintiff Moore informed the father and his third live-in girlfriend in four years of the ear infection and concern the medical professional had for possible hearing loss at the exchange when the baby was to go to her father's. Upon providing this information, the girlfriend informed the mother that the child told them that she could not hear in her left ear. That conversation was recorded and a transcript of it was provided to the District Court. The child still did not receive a follow-up evaluation or hearing test. Plaintiff has been unable to obtain the medical records from the EMS visit or even the return of any communication with Wake County EMS either in person or on the telephone. Plaintiff Moore has the right to the medical records per court order. Plaintiff Moore made the following contacts with Wake County EMS:

- March 2, 2025, actual call. EMTs arrived at approximately 9:45pm. They left without providing the 'receipt'.
- March 3, 2025, called (919) 856-6020 at 8:52 am. Call lasted 2 minutes. Tried every prompt. Left a message and requested a call back regarding medical documentation for the previous night's visit.
- March 3, 2025, (919) 876-2488 called at 1:21 pm call lasted 13 seconds.
- March 3, 2025, called (919) 856-6020 at 2:11. Chose option for every prompt and could not leave a message. Call lasted 2 minutes
- March 3, 2025, called (919) 876-6020 at 2:13. Tried every prompt. Left a message on attorney prompt, but since that was not the desired department, tried additional prompts as well. Plaintiff Moore did leave a message requesting medical records. Call lasted 10 minutes.
- March 6, 2025, called (919) 414-9945 at 6:17pm EST and left a message. The call lasted for 20 seconds.

- March 28, 2025, went by 10000 Durant Road, Wake County EMS Station 15. Rang the bell approximately 3 times over a 5 minute period. Personnel moved around but would not open the door or answer questions.
- March 28, 2025, called (919) 856-6020 at 12:57pm est. chose every prompt. Was unable to speak with a person or leave a message. Call lasted 3 minutes.
- March 28, 2025, called (919) 856-6020 at 1:01pm est. spoke with Marlon in billing. He attempted to get my information but stated that there was no record of a visit to my address. Call lasted 29 minutes.

When Judge Fariss issues an order defaming the mother, Plaintiff Moore as 'delusional' and instructing and allowing the father, Scott Mills to disseminate the statement, not only was he impugning Plaintiff Moore's character, but he was ensuring that the mother would be unable to effectively obtain medical care for the child and could not form adequate relationships with school personnel. At that time, Judge Fariss removed the baby from her Catholic School pre-K program where she was baptized, goes to church, was on a soccer team and a member of a dance class. The baby was removed from all of the friends she had ever known and placed in a school in the small where no one would report the child or the father even when she exhibited outwards signs of distress. For months she reported to school with high temperatures and with an undeniable cough and no one said anything. Since being in her father's care, the baby has not had her follow-up vaccinations. The school, unlike every other school in the nation, has not seemed to require that either. Judge Fariss' painstaking efforts to protect the father and ensure that no one could ever questioned whether the baby was subject to abuse also crafted an order that denied her even basic medical care to her detriment.

Lastly, Plaintiff Moore has a B.A. from Wake Forest University, attended Harvard E.S for pre-medical studies and as well University of North Carolina at Chapel-Hill, a Juris Doctor from St. Thomas University in Miami as a Master of Science from St. Thomas University in

Miami. Father, Scott Mills has no higher education. He was placed in charge of the child's education to ensure that any and all mandatory reporters relationships were with the father.

To date, the custodial parent continues to refuse medical evaluation or intervention for the child, despite increasing symptoms and the requested hearing assessment has been ignored.

II. Plaintiff Amy Palacios

Plaintiff Amy Palacios, a pro se litigant and former client of attorney Jay White, was subjected to procedural ambush and financial abuse in her custody and child support proceedings. White, despite having represented Palacios, later represented both of her former partners, Brad Urban and Matthew Bledsoe, in overlapping civil and criminal matters, including child support enforcement against her. White's involvement created a direct conflict of interest, which was exacerbated by a standing court order prohibiting his participation in any proceedings involving Matthew Bledsoe.

Palacios faced simultaneous hearings for both former partners on conflicting dates and was subjected to a false DSS investigation instigated by White following her refusal to comply with unsupported financial demands. Palacios was ordered to pay $2,749 per month in child support in a proceeding held in violation of prior court orders, without proper notice, and based on perjured testimony. An appeal was noted in open court, but the written order was not filed until after the appeal deadline had passed.

Palacios was also sanctioned $16,000 in attorney fees without a hearing, in further violation of her due process rights. Procedural violations include Rule 5 (service), Rule 6 (timing), and Rule 12 (responsive pleadings), which were not observed in critical proceedings. The systemic use of court processes, DSS referrals, and false allegations to financially and reputationally destroy Palacios and deny her custody rights constitute clear evidence of extrinsic

fraud and malicious prosecution.

III. Plaintiff Edyta Hannah Basista

Plaintiff Edyta Basista, a pro se litigant and with ADA-recognized disabilities due to 9-11 related trauma, was wrongfully arrested based on a time-barred misdemeanor charge of cyberstalking by email. The warrant was issued without a sworn affidavit, and her DNA was collected in violation of her Fourth and Fourteenth Amendment rights. Opposing counsel in her family court case, Evonne Sammartino Hopkins, falsely alleged Basista had no reason to contact her, despite Basista being her pro se legal adversary at the time. Hopkins had previously emailed Plaintiff Basista with instructions on how to most effectively email her during litigation. Basista's personally identifiable information (PII), along with that of her children—including confidential medical and educational records—was publicly filed by Hopkins and her attorney Robert Shields. Despite repeated requests, the court refused to seal these records. Judge William Pittman denied her motion to seal, leaving her and her children exposed to emotional and physical risk in violation of HIPAA and VAWA confidentiality protections. These failures collectively denied Basista the procedural accommodations and legal protections guaranteed under both the ADA and VAWA.

I. Jurisdictional Statement

A. District Court Jurisdiction

The United States District Court for the Eastern District of North Carolina had original subject matter jurisdiction over the Petition pursuant to 28 U.S.C. § 1331, which confers jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. The Petition asserted claims grounded in federal law, including violations of the Violence Against Women Act (VAWA), 42 U.S.C. § 13925 et seq., the Fourteenth Amendment to the

United States Constitution, and Title IV-D of the Social Security Act, codified at 42 U.S.C. § 651 et seq. These claims arise under federal statutory and constitutional provisions and therefore fall squarely within the ambit of § 1331.

Additionally, jurisdiction was proper under 28 U.S.C. § 1343(a)(3) and (4), which authorize district courts to redress deprivations, under color of state law, of rights secured by the Constitution or federal statutes providing for equal rights. The Petition alleged state action effectuated through judicial and administrative mechanisms that resulted in the denial of federally protected rights related to parental authority, access to medical care, and protection from domestic violence, all of which implicate federal civil rights law.

B. Appellate Jurisdiction

The United States Court of Appeals for the Fourth Circuit has jurisdiction over this appeal pursuant to **28 U.S.C. § 1291**, which grants courts of appeals jurisdiction from "all final decisions of the district courts of the United States." A "final decision" under § 1291 is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. (*Catlin v. United States*, 324 U.S. 229, 233 (1945)).

Here, the District Court issued a final order denying the Petition in its entirety, effectively disposing of all claims and closing the case. There are no remaining issues before the District Court, and no further proceedings are scheduled. Therefore, the order constitutes a final decision within the meaning of § 1291, and the appeal is properly before this Court.

To the extent the District Court's order could be construed as dismissing the Petition for procedural insufficiency, it still operates as a final, appealable disposition because it conclusively resolved the claims raised and did not offer leave to amend or cure any alleged deficiencies. Accordingly, appellate jurisdiction is proper.

Statement of Issues Presented

I. **Did the District Court err in dismissing the Petition without addressing substantial federal claims and without conducting the proper analysis under Federal Rule of Civil Procedure 12(b)(6), thereby depriving the pro se litigants of a meaningful opportunity to be heard (extrinsic fraud)?**

II. **Did the District Court erroneously declined or failed to properly exercise jurisdiction over well-pled federal constitutional and statutory claims, by misapplying abstention doctrines or the Rooker-Feldman bar, despite clear jurisdiction under 28 U.S.C. §§ 1331 and 1343?**

III. **Did the District Court err by failing to recognize and adjudicate well-pleaded claims asserting violations of the Fourteenth Amendment, the Violence Against Women Act (VAWA), and Title IV-D, thereby disregarding federally protected rights to parental autonomy, equal protection, and access to trauma-informed legal remedies for survivors of domestic violence based on allegations that state actors acting under color of law violated their rights?**

Statement of the Case

This appeal challenges the Eastern District of North Carolina's dismissal of a federal civil rights action brought under 42 U.S.C. § 1983 against a high-ranking state official responsible for implementing trauma-informed judicial practices in North Carolina's family courts. The action arises from the systemic deprivation of constitutional and statutory rights suffered by three women—Katherine Moore, Amy Palacios, and Edyta Basista—all of whom are survivors of domestic violence or trauma and were litigants in North Carolina family court proceedings.

The Plaintiffs allege that the injuries they suffered—including denial of due process, discriminatory treatment in family court, and retaliatory or abusive judicial action—were not merely state-level errors but arose from the failure of the Defendant, in his official capacity, to implement and enforce federal mandates under the Violence Against Women Act (VAWA) and Title IV-D of the Social Security Act. Additionally, Plaintiffs allege that their injuries were

facilitated and sustained by extrinsic fraud—including withheld evidence, ex parte hearings, and procedurally defective rulings—which rendered them unable to present their cases fairly and fully in the state forum.

The district court dismissed the complaint, relying in part on abstention doctrines and Rule 12(b)(1) and (12)(b)(6), without adjudicating the Plaintiffs' federal claims or acknowledging their invocation of the extrinsic fraud exception to doctrines such as Rooker-Feldman. This appeal asks whether the district court erred in dismissing a complaint that squarely raises federal constitutional and statutory issues, pleads a pattern of extrinsic fraud that independently warrants federal review, and seeks only prospective injunctive relief within the framework of Ex parte Young.

Argument

1. The District Court erred in dismissing the Petition without addressing substantial federal claims and without conducting the proper analysis under Federal Rule of Civil Procedure 12(b)(6), thereby depriving the pro se litigants of a meaningful opportunity to be heard, including allegations of extrinsic fraud

The District Court's dismissal of the Petition was legally erroneous and procedurally improper. Plaintiffs alleged specific violations of federal constitutional and statutory rights, including due process, equal protection, and federally imposed duties under the Violence Against Women Act (VAWA) and Title IV-D. The dismissal failed to apply the controlling standards under Federal Rule of Civil Procedure 12(b)(6) and disregarded binding precedent requiring liberal construction of pro se pleadings. Further, the District Court declined to consider colorable claims of extrinsic fraud, which independently support federal jurisdiction even when related to a prior state court judgment. The District Court's dismissal violated Plaintiffs' Procedural Due Process rights by denying a meaningful opportunity to be heard.

A. The District Court Failed to Apply the Correct Standard Under Rule 12(b)(6)

The dismissal of the Petition without any analysis of the plausibility of the claims raised constitutes reversible error under Federal Rule of Civil Procedure 12(b)(6) and Fourth Circuit precedent. A Rule 12(b)(6) motion tests the sufficiency of the complaint, not the merits. The court must "accept as true all of the factual allegations contained in the complaint and draw all reasonable inferences in favor of the plaintiff." *Hall v. DIRECTV, LLC*, 846 F.3d 757, 765 (4th Cir. 2017). The Supreme Court has repeatedly emphasized that a complaint should not be dismissed "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim." *Conley v. Gibson*, 355 U.S. 41, 45–46 (1957); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

In *Coleman v. Maryland Court of Appeals*, the Fourth Circuit reaffirmed that the plausibility standard "simply calls for enough facts to raise a reasonable expectation that discovery will reveal evidence" supporting the claims. 626 F.3d 187, 190 (4th Cir. 2010). Here, the Petition alleged concrete factual scenarios detailing deprivation of medical authority, suppression of exculpatory evidence, unlawful custody hearings held ex parte, and the exclusion of trauma-informed practices mandated under federal law. These allegations, taken as true, establish facially plausible claims under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and under federal statutes administered through 42 U.S.C. § 1983.

B. The District Court Improperly Dismissed a Pro Se Civil Rights Petition Without Liberal Construction or Leave to Amend

The Fourth Circuit has consistently held that pleadings filed by pro se litigants must be "liberally construed" and "held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *King v. Rubenstein*, 825 F.3d 206, 214 (4th

Cir. 2016). The failure to apply this standard in a civil rights context, where constitutional deprivations are alleged, requires reversal.

Moreover, the Court's dismissal without granting leave to amend contravenes Fourth Circuit precedent, which holds that "[l]eave to amend a pleading should be freely given, especially when justice so requires." *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006) (en banc) (citing Fed. R. Civ. P. 15(a)). The Fourth Circuit has made clear that dismissal of pro se complaints for pleading deficiencies—particularly in civil rights matters—should rarely occur without providing the litigant a meaningful opportunity to cure the defect. See *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). In this case, no such opportunity was afforded.

C. The District Court Erred in Failing to Consider the Independent Federal Jurisdiction Ground of Extrinsic Fraud

Federal courts retain jurisdiction over independent civil rights actions challenging state-court judgments procured through extrinsic fraud, even when the judgment itself might otherwise be subject to preclusive effect. The Fourth Circuit has expressly recognized this principle in *Morrel v. Nationwide Mutual Fire Insurance Co.*, where it held that "an independent action may be brought in federal court to challenge [a] state court judgment." 188 F.3d 218, 223 (4th Cir. 1999) (citing *Aetna Cas. & Sur. Co. v. Abbott*, 130 F.2d 40, 42 (4th Cir. 1942)).

The Fourth Circuit's earlier decision in *Resolute Ins. Co. v. State of North Carolina*, 397 F.2d 586, 589 (4th Cir. 1968), is equally clear: "a federal court may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake." These precedents fall squarely within the recognized exceptions to the *Rooker-Feldman* doctrine, acts as a judicial bar for federal review of state court judgments only where the federal claims are "inextricably intertwined" with the state judgment and the plaintiff seeks

reversal or modification of that judgment. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

The Petition in this case did not seek to overturn any specific family court custody ruling. Instead, it alleged that judicial officials and state personnel, under the supervision and training of Defendant Mike Silver, engaged in misconduct that prevented Plaintiffs from presenting evidence, receiving notice, or participating in hearings—the classic definition of extrinsic fraud. See *Marshall v. Holmes*, 141 U.S. 589, 596 (1891). Where a state judgment is the result of such fraud, federal review is not only permitted, but necessary to vindicate due process rights under 42 U.S.C. § 1983. Additionally, Plaintiffs' petition sought specifically to enjoin the fraudulent conduct that violated federal statute and constitutional rights.

D. Plaintiffs' Allegations of Constitutional and Statutory Violations Were Sufficient to Survive Dismissal

The Petition asserted violations of:

- The Fourteenth Amendment's Due Process Clause: based on surprise hearings, suppression of critical medical evidence, and deprivation of parental and medical decision-making rights without opportunity to be heard.
- VAWA, 34 U.S.C. § 12291(b)(2): by demonstrating that state actors receiving federal funds failed to implement trauma-informed judicial procedures as required under STOP Grant obligations.
- Title IV-D, 42 U.S.C. § 654(20): alleging that North Carolina's child support enforcement scheme failed to protect custodial parents and permitted enforcement actions against protective parents in violation of federal safeguards.
- 42 U.S.C. § 1983: as the operative vehicle for redressing these violations.

- Plaintiffs also asserted that these violations were facilitated and sustained through extrinsic fraud—a key distinction that further compels survival of the claims at the Rule 12(b)(6) stage.

Federal courts are obligated to adjudicate such claims unless they are wholly insubstantial or frivolous—which these clearly are not. See *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89 (1998).

The Due Process Clause of the Fourteenth Amendment guarantees that no person shall be deprived of life, liberty, or property without due process of law. In the civil context, this guarantee includes the right to a meaningful opportunity to be heard before an impartial tribunal. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) ("An elementary and fundamental requirement of due process… is notice reasonably calculated… and an opportunity to present objections."). This constitutional protection is especially vital in civil rights cases alleging state deprivation of core familial and bodily autonomy rights, including custody, medical authority, and access to the courts.

Here, the District Court violated this bedrock constitutional guarantee by summarily dismissing the Petition without analysis, without permitting an evidentiary hearing, and without granting the Plaintiffs—all pro se domestic violence survivors—any opportunity to amend or further develop the record. Rather than engaging in the required plausibility review under Rule 12(b)(6), the court functionally bypassed the substance of Plaintiffs' federal constitutional and statutory claims, depriving them of a judicial forum altogether.

The Supreme Court has long recognized that procedural due process is not a technical formality but a safeguard of fundamental fairness. *See Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard... at a

meaningful time and in a meaningful manner."). The Court has also emphasized that the procedural protections of due process are heightened when the deprivation concerns fundamental rights such as parental autonomy and protection from state-imposed harm. *See Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

The District Court's dismissal undermines these protections in two key ways:

1. Failure to Consider Substantial Allegations of Extrinsic Fraud:

   Plaintiffs alleged that they were denied access to court proceedings, prevented from presenting evidence, and subjected to secret hearings and ex parte communications—all of which constitute extrinsic fraud as recognized in *Marshall v. Holmes*, 141 U.S. 589 (1891) and Fourth Circuit precedent (e.g., *Morrel v. Nationwide Mut. Fire Ins. Co.*, 188 F.3d 218, 223 (4th Cir. 1999)). Dismissing such claims without factual analysis denies the litigants their constitutional right to redress fraud perpetrated by and through the judicial process.

2. Disregard for Pro Se Status and the Need for Liberal Construction:

   Plaintiffs, as pro se litigants, were entitled to a liberal construction of their pleadings and reasonable opportunity to clarify or amend any perceived deficiencies. The Fourth Circuit has consistently held that "dismissal of pro se complaints for pleading deficiencies should rarely occur without providing an opportunity to amend." *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The District Court's failure to offer such an opportunity—especially where claims involve constitutional and federally protected rights—amounts to a denial of the basic procedural rights guaranteed by due process.

In short, Plaintiffs were denied a meaningful opportunity to be heard on claims that invoke fundamental liberties and statutory rights conferred by Congress. Such a procedural dismissal without fair review, factual development, or the opportunity to amend constitutes a violation of the Fourteenth Amendment and compels reversal.

2. **The District Court improperly declined or failed to exercise jurisdiction over well-pleaded constitutional and statutory claims by misapplying abstention doctrines or the Rooker-Feldman bar, despite the presence of clear federal question and civil rights jurisdiction under 28 U.S.C. §§ 1331 and 1343**

A. The District Court Had Mandatory Jurisdiction Under 28 U.S.C. §§ 1331 and 1343

Under 28 U.S.C. § 1331, federal courts possess jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." Plaintiffs' Petition alleged actionable claims under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, VAWA (34 U.S.C. § 12291), and Title IV-D, and sought injunctive and declaratory relief under § 1983, which independently invokes § 1343(a)(3) and (4) (civil rights jurisdiction).

As the Fourth Circuit has emphasized, "[w]hen the plaintiff alleges the violation of a federal constitutional or statutory right, § 1983 provides a vehicle for bringing the claim in federal court." *Safar v. Tingle*, 859 F.3d 241, 245 (4th Cir. 2017). The District Court was not permitted to refuse adjudication based on abstract concerns of state court overlap when federal law is plainly implicated.

The Supreme Court has made clear that federal courts are under a "virtually unflagging obligation" to exercise the jurisdiction granted to them. *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). Abstention is the exception, not the rule. The Fourth Circuit similarly cautions that "[a]bstention from the exercise of federal jurisdiction is the

exception, not the rule." *Martin v. Stewart*, 499 F.3d 360, 363 (4th Cir. 2007) (citing *Ankenbrandt v. Richards*, 504 U.S. 689, 705 (1992)).

Finally, the record shows that the District Court did not conduct any jurisdictional fact-finding or allow discovery before dismissing the case. Where, as here, jurisdiction depends on the facts alleged by Plaintiffs, a facial challenge under Rule 12(b)(1) must accept those facts as true. See *Kerns v. United States*, 585 F.3d 187, 192 (4th Cir. 2009).

There is no indication that the District Court conducted a factual jurisdictional inquiry or found that any federal statute was inapplicable as a matter of law. Rather, it appears the court prematurely disposed of the complaint without engaging in the required threshold analysis. This is a paradigmatic example of a dismissal that, if it were to have proceeded at all, it would have been under Rule 12(b)(6) after giving Plaintiffs an opportunity to be heard and amend. In this case 12(b)(6) is also improper was legally erroneous and procedurally premature. At the motion-to-dismiss stage, the court was obligated to accept all well-pleaded allegations as true, draw all reasonable inferences in favor of the Plaintiffs, and assess only whether the allegations "plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Additionally, because Plaintiffs filed pro se, the District Court was required to liberally construe their pleadings and grant leave to amend absent clear futility. The court failed on all three fronts.

B. The Rooker-Feldman Doctrine Does Not Apply to Independent Claims Based on

1. Constitutional Violations or Extrinsic Fraud

The Rooker-Feldman doctrine bars federal jurisdiction only when a party seeks "review and rejection" of a final state court judgment in a de facto appellate proceeding. It does not apply to

independent civil rights claims, even if those claims are related to or triggered by a state court judgment.

In *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005), the Supreme Court strictly limited the application of Rooker-Feldman, holding that it applies only to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." Id. at 284. The Court warned that Rooker-Feldman should not be used to dismiss federal claims merely because they relate to the same subject matter as a state court case.

The Fourth Circuit has faithfully applied *Exxon* to preserve jurisdiction over federal claims. In *Thana v. Bd. of License Comm'rs for Charles Cnty., Md.*, the Fourth Circuit reversed dismissal of a § 1983 case where the district court improperly invoked Rooker-Feldman, reiterating that "[t]he Rooker-Feldman doctrine has a narrow application." 827 F.3d 314, 318–19 (4th Cir. 2016). A district court cannot avoid review merely because the state court proceedings touched on similar issues. Id. at 321–22.

Here, Plaintiffs did not seek appellate review of state custody rulings but alleged independent injuries caused by constitutional violations, statutory noncompliance, and fraudulent deprivation of rights, including: denial of medical and educational authority over minor children; suppression of evidence in family court proceedings; coercive enforcement of orders without procedural due process; and misuse of federal funds and failure to implement trauma-informed protections under VAWA and Title IV-D.

These are not disguised appeals; they are federal questions invoking jurisdiction independently under § 1331 and § 1343. Moreover, where claims involve extrinsic fraud—fraud that denies a party the opportunity to be heard—Rooker-Feldman does not apply. The Fourth

Circuit acknowledged this exception in *Morrel v. Nationwide Mut. Fire Ins. Co.*, 188 F.3d 218, 223 (4th Cir. 1999), where it confirmed that "an independent action may be brought in federal court to challenge a state court judgment" based on fraud. See also *Resolute Ins. Co. v. State of North Carolina*, 397 F.2d 586, 589 (4th Cir. 1968) ("a federal court may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake"). Ultimately, where extrinsic fraud is alleged, federal courts retain jurisdiction even if the relief incidentally undermines a prior state court judgment.

C. Extrinsic Fraud Exception to Rooker-Feldman Judicial Bar Is Recognized in the Fourth Circuit and Abstention Doctrines Do Not Apply Here

The Fourth Circuit in particular has explicitly recognized that federal courts may entertain collateral challenges to state judgments when plaintiffs allege that the judgment was procured through fraud, deception, or misconduct that prevented a full and fair hearing. In *Morrel v. Nationwide Mut. Fire Ins. Co.*, the court held that "an independent action may be brought in federal court to challenge a state court judgment" where extrinsic fraud is alleged. 188 F.3d 218, 223 (4th Cir. 1999) (citing *Aetna Cas. & Sur. Co. v. Abbott*, 130 F.2d 40, 42 (4th Cir. 1942)).

Earlier, in *Resolute Ins. Co. v. State of North Carolina*, the Fourth Circuit emphasized that "a federal court may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake." 397 F.2d 586, 589 (4th Cir. 1968). These holdings remain good law post-*Exxon* and preclude dismissal where—as here—plaintiffs allege that they were denied access to the court, deprived of notice, or barred from presenting evidence due to systemic procedural irregularities and bias.

In Plaintiff Moore's case, her action was predicated on fraudulent filings where the opposing party filed in a county where no one lived or worked. Despite several attempts to transfer the

case to the proper forum, Nash County, NC held special interest in this case. The very first hearing literally presented a physical bar for Plaintiff Moore to the case. Plaintiff Moore was present in the courtroom, however opposing counsel, her counsel and presumably opposing party were in judge's chambers where the entirety of the hearing was held. Plaintiff Moore was not present, she was not asked to participate and she was not allowed to introduce evidence or testimony. Plaintiff Moore was literally barred from participation in her case in every manner.

This qualifies as extrinsic fraud because it precluded participation entirely, not merely resulting in an adverse outcome. [*See Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140 (9th Cir. 2004) – extrinsic fraud includes when a party is "kept away from the court by a false promise of a compromise" or "never had knowledge of the suit."]. Because extrinsic fraud prevents the formation of a valid judgment in the first place, the Rooker-Feldman doctrine does not shield state actors or judicial officers from scrutiny under § 1983.

To the extent the District Court relied on doctrines such as Younger or Burford abstention, those too are inapplicable. Federal courts may abstain from exercising jurisdiction only in "exceptional circumstances" where there is a pressing need to avoid interfering with ongoing state judicial proceedings. *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans (NOPSI)*, 491 U.S. 350, 368 (1989); *Martin v. Stewart*, 499 F.3d 360, 364 (4th Cir. 2007). However, abstention is never appropriate where:

- Plaintiffs seek prospective relief to prevent future constitutional violations (*Mitchum v. Foster*, 407 U.S. 225, 242 (1972));
- The challenged conduct involves completed harm, not pending state proceedings (*Nivens v. Gilchrist*, 444 F.3d 237, 241–42 (4th Cir. 2006)); or
- the case concerns systemic violations of federally protected rights.

In *Nivens*, the Fourth Circuit underscored that "Younger abstention is inappropriate when the federal plaintiff seeks only damages for an alleged violation of federal law." Id. at 248. Here, Plaintiffs sought both injunctive and declaratory relief—not to reverse any particular order, but to enforce compliance with federal obligations and to prevent ongoing harm under the Fourteenth Amendment, VAWA, and Title IV-D.

The District Court had a clear statutory obligation to adjudicate Plaintiffs' federal claims under 28 U.S.C. §§ 1331 and 1343. Its failure to do so—whether through misapplication of Rooker-Feldman or inappropriate abstention—was a reversible error. Plaintiffs' allegations involve independent constitutional injuries, well-pleaded claims of extrinsic fraud, and requests for prospective relief—all of which fall squarely within the core jurisdiction of Article III courts.

3. **The District Court erred by failing to recognize and adjudicate claims asserting violations of the Fourteenth Amendment, the Violence Against Women Act (VAWA), and Title IV-D, thereby disregarding federally protected rights to parental autonomy, equal protection, and trauma-informed judicial access for survivors of domestic violence.**

The District Court's summary dismissal of Plaintiffs' petition disregarded core federal protections explicitly and independently guaranteed under the Fourteenth Amendment to the United States Constitution, the Violence Against Women Act (VAWA), 34 U.S.C. § 12291 et seq., and Title IV-D of the Social Security Act, 42 U.S.C. § 651 et seq. The petition set forth a well-documented factual record establishing that the Plaintiffs, all protective mothers and survivors of abuse, were subjected to gender-based discrimination, extrinsic fraud, and systemic due process violations in state court custody proceedings. The District Court's failure to meaningfully analyze or address these claims constitutes a clear legal error and warrants reversal.

A. Plaintiffs Alleged Violations of Substantive and Procedural Due Process Under the Fourteenth Amendment

The right of a parent to make decisions concerning the care, custody, and control of their child is a fundamental liberty interest protected by the Due Process Clause of the Fourteenth Amendment. *Troxel v. Granville*, 530 U.S. 57, 65 (2000). This liberty interest is "perhaps the oldest of the fundamental liberty interests recognized by this Court." Id.

In this case, Plaintiff Katherine Moore, a domestic violence survivor, was stripped of medical and educational decision-making authority over her daughter through state court proceedings where Plaintiff Moore was denied notice and excluded from key hearings, medical evidence and physician testimony were excluded or ignored, and the court refused to enforce child support obligations, all while delegating decision-making authority to the abusive, noncustodial parent.

Such state action under color of law not only offends substantive due process but also violates procedural due process, which requires fair notice and a meaningful opportunity to be heard. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). The Fourth Circuit has repeatedly affirmed that "procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests." *Sansotta v. Town of Nags Head*, 724 F.3d 533, 540 (4th Cir. 2013).

Here, the state's interference with fundamental parental rights occurred not through a neutral adjudicative process, but through a discriminatory and irregular system that denied Plaintiff Moore and other plaintiffs the right to participate in proceedings that directly affected their constitutional rights and the welfare of their children.

B. The District Court Ignored Viable Claims Under the Violence Against Women Act (VAWA), 34 U.S.C. § 12291(b)(2)

The Violence Against Women Act (VAWA) is a comprehensive federal statute designed to address and prevent domestic violence, dating violence, sexual assault, and stalking. It imposes

enforceable conditions on states and state courts that receive federal funding, requiring them to ensure access to justice for survivors without discrimination, retraumatization, or bias.

Under 34 U.S.C. § 12291(b)(2)(B), any program or activity funded by VAWA, including courts receiving STOP grants and related funding streams, must, "Ensure that victims of domestic violence, dating violence, sexual assault, or stalking are not denied access to the services provided by the program on the basis of sex, race, color, religion, national origin, sexual orientation, gender identity, or disability." Moreover, VAWA's implementing provisions—including the STOP (Services, Training, Officers, and Prosecutors) grant program—require that states institute and maintain ***trauma-informed judicial procedures***, ***court-based advocacy programs***, *and* ***protective services that are free from gender bias*** (emphasis added). Specifically, under **34 U.S.C. § 10446(e)(2)(C)**, recipients of STOP funding must, "Implement and provide trauma-informed training for judges, court personnel, and prosecutors on domestic violence, sexual assault, dating violence, and stalking, including how to recognize, respond to, and avoid retraumatization of survivors."

These statutory mandates reflect Congress's explicit intent to federalize minimum standards for survivor treatment in judicial forums. Failure to implement such protocols is not a state policy issue—it is a federal compliance failure that subjects recipients to suit under 42 U.S.C. § 1983, as VAWA's funding conditions impose a non-discretionary obligation enforceable by individuals injured by violations of those terms.

1. The Plaintiffs Plausibly Alleged VAWA Violations by State Court Personnel and Judicial Officers Acting Under Color of Law

The Plaintiffs presented extensive, specific allegations that court personnel and judges in North Carolina's family courts—entities receiving VAWA-linked federal funds—engaged in

systemic conduct that violated VAWA's core nondiscrimination and trauma-informed access mandates. These include judicial disbelief of abuse survivors' claims due to gender-based biases even in the face of overwhelming evidence; exclusion or minimization of domestic violence evidence, including medical records and recordings of the abusive parent's conduct; penalization of protective parents who raised abuse concerns—particularly mothers—with sanctions, contempt threats, loss of custody, and denial of child support; coercive courtroom environments where victims were forced to testify in the presence of abusers.

These practices amount to a denial of access to judicial services on the basis of sex and trauma status, in direct violation of § 12291(b)(2).

Plaintiff Katherine Moore, a documented domestic violence survivor, was barred from testifying about domestic violence in child custody proceedings; the family court refused to consider medical evidence substantiating harm to her and her daughter; she is forced to co-parent with the documented abuser; judges and court staff treated her with open hostility and contempt for seeking legal protections. These facts establish a prima facie case that North Carolina courts and personnel have received federal funds while simultaneously failing to comply with mandatory trauma-informed procedures and nondiscriminatory access requirements—a direct violation of VAWA.

2. VAWA's Funding Conditions Are Enforceable Under 42 U.S.C. § 1983 Where Plaintiffs Are the Intended Beneficiaries

VAWA's statutory structure and its implementation through formula grants like STOP make clear that individual survivors are the intended beneficiaries of its mandates. Courts have consistently held that where a federal statute confers specific, individualized rights, those rights are enforceable through 42 U.S.C. § 1983. See: *Blessing v. Freestone*, 520 U.S. 329, 340–41

(1997); § 1983 is available where the statute in question confers an "unambiguously conferred right" and "binds the state with a specific, enforceable obligation." *Gonzaga Univ. v. Doe*, 536 U.S. 273, 285 (2002); finding that statutes with rights-creating language directed at individuals—as opposed to generalized government duties—are presumptively enforceable.

VAWA satisfies these requirements. The statutory command that survivors "shall not be denied access" to court-related services on the basis of sex or trauma status is directed at a defined class (victims of domestic violence), using rights-creating language ("shall not be denied"), and imposes a specific, nondiscretionary obligation on grant recipients.

Moreover, the STOP grant program is conditioned on state implementation of training, protocols, and courtroom accommodations that protect survivor dignity and safety—provisions that are routinely violated in the cases of Plaintiffs Moore, Palacios, and Basista.

The District Court failed to engage in the required analysis under Blessing and Gonzaga to determine whether Plaintiffs stated a claim under § 1983 based on the government's failure to comply with VAWA's funding conditions. That failure amounts to reversible legal error.

3. Courts Have Permitted Claims Based on Failure to Comply With Federally Funded Domestic Violence Protections

Although VAWA does not contain an express private right of action for damages, federal courts have recognized § 1983 as an appropriate vehicle for enforcing VAWA-related obligations when tied to federal funding mandates and equal access protections. For example, in Lopez v. Cipoletti, No. 1:22-cv-01542, 2023 WL 3294048 (D. Colo. May 5, 2023), the court denied a motion to dismiss where plaintiff alleged that court officials denied her access to family court proceedings in violation of VAWA's mandates. In G.M. v. Dryden Central School District, 2020 WL 502692 (N.D.N.Y. Jan. 31, 2020), the court held that allegations of gender-based

mistreatment of a sexual assault survivor stated a viable Title IX and VAWA violation because the school district received STOP funding.

Similar principles apply here: North Carolina courts accept and expend VAWA STOP funds. The Plaintiffs are within the class of intended beneficiaries. The denial of trauma-informed procedures and nondiscriminatory treatment violates the core conditions of that funding and therefore constitutes a federally cognizable civil rights injury.

4. The District Court's Failure to Address These Allegations Precluded Proper Adjudication of Relief Available Under Federal Law

Rather than analyzing whether Plaintiffs had stated a cause of action under VAWA, the District Court summarily dismissed the Petition without applying the governing legal framework or considering relevant statutory authority. The court did not evaluate whether VAWA created enforceable rights; consider the Plaintiffs' standing as survivors and intended beneficiaries of federally funded programs; or assess the injunctive and declaratory relief sought, including changes to North Carolina's judicial practices and enforcement of federal funding conditions.

This failure to engage in even a threshold § 1983 analysis constitutes legal error. Federal courts are not empowered to disregard facially plausible claims simply because they implicate state court behavior—particularly where plaintiffs do not seek to overturn custody decisions, but rather seek structural compliance with federal law.

The Violence Against Women Act imposes federally enforceable obligations on state courts and agencies that receive federal funds to protect and serve survivors of domestic violence. Plaintiffs alleged systemic, repeated violations of these mandates by North Carolina courts and judicial officers, establishing a clear basis for relief under § 1983. The District Court's failure to analyze or even acknowledge these claims reflects a misapplication of federal civil rights law

and deprives survivors of meaningful judicial recourse. That error demands reversal and remand for adjudication on the merits.

C. **The District Court Erred in Concluding That Mike Silver Was Not the Proper Defendant for Prospective Relief**

The District Court erred in concluding that Mike Silver, the Director of Training and Services for the North Carolina Administrative Office of the Courts (AOC), is not the appropriate official to sue for injunctive relief. Plaintiffs have not sued Silver for past damages or based on vicarious liability, but rather seek prospective declaratory and injunctive relief to compel compliance with federally mandated duties under the Violence Against Women Act (VAWA) and Title IV-D. Silver's position and authority within the state court system make him the correct defendant under the doctrine of Ex parte Young, 209 U.S. 123 (1908).

1. Ex parte Young Permits Suit Against State Officials Responsible for Enforcement of Unconstitutional Policies

The Eleventh Amendment does not bar suits for prospective injunctive relief brought against state officials in their official capacities to remedy ongoing violations of federal law. *Ex parte Young*, 209 U.S. at 159–60. The Fourth Circuit has consistently recognized that state officials can be sued in federal court when the plaintiff alleges a continuing violation of federal law; the official has a connection with the enforcement of the challenged law or policy; and the relief sought is prospective, not retroactive. See *McBurney v. Cuccinelli*, 616 F.3d 393, 399 (4th Cir. 2010) (emphasizing that "the state officer sued must have some connection with enforcement"); *South Carolina Wildlife Fed'n v. Limehouse*, 549 F.3d 324, 332 (4th Cir. 2008) (suit permitted against official who "was plainly the state actor most responsible" for the challenged activity).

As Director of Training and Services for the North Carolina Administrative Office of the Courts, Mike Silver is the senior official responsible for judicial officer education, court protocol development, and compliance training. These responsibilities place him squarely within the scope of officials whose acts or omissions affect systemic compliance with federal mandates.

Plaintiffs allege that North Carolina's courts are systemically non-compliant with VAWA and Title IV-D funding conditions, including trauma-informed access to courts, nondiscriminatory treatment of abuse survivors, and protective court procedures; Silver, through his leadership role, has failed to implement required judicial education and accountability structures, despite being charged with these responsibilities by statute, policy, and the functional role of the AOC; and as a result of Silver's inaction, survivors of domestic violence—such as the Plaintiffs—have suffered ongoing federal rights violations, including discriminatory treatment, re-traumatization, and denial of fair process in child custody and family court proceedings.

These facts satisfy the requirement that the defendant be responsible for the challenged conduct. Courts do not require the official to be a final policymaker, only that they have "some connection with the enforcement of the act." *Ex parte Young*, 209 U.S. at 157. Silver's supervisory authority over statewide training, court procedures, and administrative implementation of court standards is more than sufficient to establish this connection. *See also Planned Parenthood of S.C. Inc. v. Rose*, 361 F.3d 786, 790 (4th Cir. 2004) (suit proper against state official with authority to enforce challenged program).

The District Court misconstrued the nature of the relief sought. The District Court appears to have rejected Plaintiffs' claims on the mistaken belief that Silver is not "the official responsible for the alleged violations." But this interpretation ignores the forward-looking and structural nature of the relief sought. Plaintiffs are not seeking to relitigate state court decisions; they seek

an order requiring the implementation of federally mandated training and trauma-informed protocols for all judges and court staff; systemic prospective relief ensuring court access and nondiscriminatory treatment of protective parents and survivors of domestic violence; and enforcement of Title IV-D obligations regarding fair child support enforcement policies and IV-D compliance reviews. Silver, as the director of AOC training and compliance services, is precisely the kind of official who can effectuate such systemic injunctive relief.

If the District Court believed another AOC official would be more appropriate—for instance, the Director or Administrator of the AOC—it could have substituted or joined such parties, rather than dismissing the case outright. See *Fed. R. Civ. P. 21* ("Misjoinder of parties is not a ground for dismissing an action.").

D. Fourth Circuit Precedent Supports Suit Against State Judicial Administrators for Systemic Relief

The Fourth Circuit has upheld suits against state officials responsible for administrative implementation of judicial or statutory mandates. In *Hutto v. South Carolina Retirement System*, 773 F.3d 536 (4th Cir. 2014), the court allowed plaintiffs to proceed against state pension administrators, not because they directly harmed plaintiffs, but because they were responsible for executing state policies alleged to violate federal law.

Similarly, in *Poe v. Bryant*, 950 F.3d 213 (4th Cir. 2020), the Fourth Circuit reversed a 12(b)(1) dismissal where the plaintiff sued state correctional officials for failure to implement proper policies to prevent ongoing constitutional violations. As in those cases, Silver's administrative position makes him a proper party for prospective compliance orders, even if he was not the individual judge presiding over any plaintiff's specific hearing.

E. Denying Suit Against Silver Would Create a Federal Accountability Vacuum

If the Court accepts the argument that no AOC official can be sued for failure to implement federally mandated training and court procedures, it would render federal mandates under VAWA and Title IV-D unenforceable in practice—contrary to the intent of Congress and the Supremacy Clause. *See Maine v. Thiboutot*, 448 U.S. 1 (1980) (Section 1983 provides a cause of action to enforce federal statutes, not just constitutional rights). Plaintiffs have no other avenue for redress where structural noncompliance by judicial officers occurs at scale, and where the failure is directly traceable to a state administrative actor tasked with overseeing such compliance.

Because Mike Silver is responsible for the training, supervision, and administrative standards of North Carolina's judiciary, he is a proper defendant under *Ex parte Young* for injunctive relief enforcing compliance with VAWA and Title IV-D. The District Court's conclusion to the contrary ignores both the scope of Silver's duties and the nature of the relief requested. That finding should be reversed, and the case remanded for adjudication on the merits or whatever other remedy this court deems appropriate.

F. The Supremacy Clause Supports Federal Enforcement of Plaintiffs' Rights and Does Not Provide a Basis for Dismissing the Petition

The Supremacy Clause of the United States Constitution, found in Article VI, Clause 2, provides that the "Constitution, and the Laws of the United States… shall be the supreme Law of the Land." This clause unequivocally establishes that federal law preempts conflicting state laws, and more importantly for this case, it mandates that state courts and officials remain subordinate to enforceable federal rights. It is a constitutional command—not a defense mechanism against federal oversight.

The District Court's dismissal of Plaintiffs' Petition, to the extent it was premised on deference to ongoing or concluded state proceedings, misunderstands and misapplies the

Supremacy Clause. Federal courts are not only empowered but obligated to hear and enforce claims brought under federal statutes and constitutional provisions, particularly where plaintiffs allege that state actors—including judicial officers and court administrators—have violated rights secured by federal law. *See Maine v. Thiboutot*, 448 U.S. 1, 4–5 (1980) (affirming that 42 U.S.C. § 1983 may be used to enforce federal statutory rights against state actors).

Moreover, as the Fourth Circuit has noted, the existence of concurrent state proceedings does not deprive a federal court of its obligation to enforce federal law, nor can state practices be shielded from federal review when they conflict with federal mandates. *See Martin v. Stewart*, 499 F.3d 360, 363 (4th Cir. 2007) (emphasizing that abstention from federal jurisdiction is the "exception, not the rule").

Dismissal of Plaintiffs' Petition on the basis of comity, deference to state court judgments, or implied abstention would render the Supremacy Clause meaningless, particularly where Plaintiffs are seeking prospective injunctive relief to bring a federally funded state court system into compliance with laws such as VAWA and Title IV-D. These statutes are not advisory; they are binding law with enforceable provisions, and they preempt any conflicting state procedure or policy.

Thus, the Supremacy Clause does not support dismissal—it compels federal review. The Petition alleges violations of federally conferred rights by state officials acting under color of law. Dismissing those claims on the basis of state court finality or autonomy flips the Supremacy Clause on its head and directly contravenes the core purpose of Article VI. This Court should reverse the dismissal and ensure federal law is given the full effect that the Constitution requires.

Conclusion

For the foregoing reasons, Appellants respectfully request that this Court reverse the judgment of the United States District Court for the Eastern District of North Carolina and remand this matter for further proceedings on the merits, or, in the alternative, retain jurisdiction and assume control over the case as may be warranted by the record and equities.

The District Court erred in summarily dismissing the Petition without substantive review of the constitutional and statutory claims asserted under the Fourteenth Amendment, VAWA, Title IV-D, and 42 U.S.C. § 1983, and without addressing the substantial allegations of extrinsic fraud. This failure denied the pro-se Appellants their right to a meaningful opportunity to be heard and effectively insulated unconstitutional state court conduct from federal review—contrary to the mandates of the Supremacy Clause and controlling precedent.

Appellants respectfully request the following relief:

1. Reversal of the District Court's dismissal under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6);
2. Remand for proceedings consistent with the proper legal standard, including the opportunity for Appellants to develop a factual record and obtain adjudication of their federal claims on the merits;
3. A declaratory judgment that the state actors' conduct, as described in the Petition—namely the denial of due process, discriminatory treatment, extrinsic fraud, suppression of evidence, and punitive retaliation against protective parents—constituted ongoing violations of Appellants' rights under the United States Constitution and federal law;
4. An order for prospective injunctive relief, requiring the North Carolina Administrative Office of the Courts and its designated officials to comply with the federal mandates established by the Violence Against Women Act (34 U.S.C. § 12291 et seq.) and Title IV-

D (42 U.S.C. § 651 et seq.), including implementation of trauma-informed judicial training, non-discriminatory adjudication procedures, and transparent oversight;

5. Recognition that Defendant Mike Silver is a proper party under *Ex parte Young*, and thus subject to prospective injunctive relief in his official capacity;
6. An order retaining jurisdiction or assuming supervisory control over the enforcement of any relief granted, if the Court determines that remand would likely result in further delay, retaliation, or the continuation of constitutional harm due to systemic noncompliance or judicial bias;
7. Such other and further relief as this Court deems just, equitable, and consistent with the constitutional interests at stake.

Respectfully submitted,

/s/ Katherine Moore

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/s/ Amy Palacios

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/s/ Edyta Hannah Basista

Edyta Basista, pro se

Dated: May 7, 2025

CERTIFICATE OF SERVICE

I certify that on May 7, 2025, I filed the foregoing **Informal Brief** using the Court's CM/ECF system, which constitutes service on all registered CM/ECF participants, including counsel for Appellee.

This Certificate is submitted in good faith and in compliance with the rules of this Court.

May 7, 2025

Respectfully submitted,
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