

PAG INFORMATIONAL LETTER TO THE CHIEF JUDGE OF THE FEDERAL FOURTH CIRCUIT COURTS

DATE: August 31, 2024

IAJ Document Version Control Log

Document ID: IAJ-PAG-20250905-001-PUB
Initial Release Date: 2025-09-05

Version History

Version	Date	Author(s)	Summary of Changes
v1.0	2025-09-05	PAG	Initial release

Classification: PAG (Private Attorney General)
Access Level: Public Release

31 August 2025

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**Advisory letter regarding a pervasive systemic issue in American
jurisprudence that compromises our judiciary and exposes your Circuit's
judges and your litigants to harm**

Dear judge Diaz,

I write with concern for your judges and your litigants. A nationwide problem is harming your judges, your courts and your litigants, and you are in a unique position to address it for everyone's benefit. I ask for your indulgence of this long letter, and if you endure its length and density, you might agree that it performs a valuable and educational service for you and your Circuit.

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Summary

A systemic issue of grave consequence afflicts US jurisprudence. Article III judges are entrusted by Article VI of the Constitution with the solemn duty to uphold treaties as “*the supreme Law of the Land*” with “*good Behaviour*” (Article III). Yet in practice, this duty is routinely evaded. The courts of this Circuit and throughout the United States, impermissibly ignore human rights treaties, and more broadly, dismiss allegations of torture and cruel, inhuman, or degrading treatment (CIDT) as if they were beneath legal notice, labeling them “frivolous” under 28 U.S.C. § 1915(e)(2)(B), invoking abstention doctrines without analysis, and treating binding treaty law as if it were a nullity. This practice not only violates constitutional fidelity; it amounts to complicity in derogation of rights that international law deems absolutely non-derogable, and punishes as a crime.

As an example, the recent case of *Betts v. North Carolina et al.* (M.D.N.C. 1:25-cv-341; 4th Cir. 25-1607) illustrates the systemic defect. Ms. Betts, an indigent pro se (disabled) mother, alleged repeated arrests and forced separations from her child under a custody order that she asserted was void for judicial violation of her human rights and lack of jurisdiction because of unconstitutional policies that are systemically enforced by the state court. Her filings raised claims that, by any fair reading, implicate CIDT under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) intertwined with the question of lawful sanctions. Yet the district court dismissed her case as frivolous without explanation, and your Appeal Court summarily dismissed her appeal for lack of jurisdiction. No tribunal in this system ever examined her allegations under the substantive standards of UNCAT Articles 12–14. That failure is not merely procedural; it is substantive failure with the appearance of the evasion of *jus cogens* obligations.

The manner of the dismissals indicates that the basis for them is so well-established by policy in your Circuit’s courts that we see no explanation in the record by either the federal trial court or the federal appeals court that comports with the constitutional scrutiny required for such a human rights complaint, and a sufficient statement of decision for appeal. Such a statement is necessary for purposes of the appropriate standard of human rights compliance and investigation.

This letter seeks to focus your attention on three central issues. First, the structural defect in U.S. jurisprudence lies not in Congress's ratification of UNCAT¹ but in the judiciary's refusal to enforce its obligations. Second, the Senate's reservations, understandings, and declarations (RUDs) cannot justify complete disengagement; even accepting non-self-execution, judges remain bound to interpret statutes and doctrines consistently with treaty commitments. Third, reform is urgent: this Circuit and its courts must adopt standards ensuring that human rights complaints are not dismissed as legal nullities, must recognize the constitutional binding force of treaties, and must support independent mechanisms for impartial review.

I strongly encourage your leadership and corrective action in convening judicial discussion and recommending systemic reform, including the establishment of an independent investigative mechanism for human rights complaints for your Circuit's courts, consistent with the requisite international standards.

National Systemic Issue

I speak to you now after having established in the public record, and through an independent 'investigation' (pending publication) spanning the last seven and a half years, that every one of over 40 state and federal judges individually tested, operate according to a systemic and invariant policy of discrimination based on disability, and proceed according to a policy of calculated violation of litigant human rights² that are non-derogable under the *jus cogens* of Customary International Law under any circumstance, and confirmed as prohibited acts under treaties³ and the US

¹ United Nations record of the deposit of the ratification of the treaty:
<https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/iv-9.en.pdf>

² For example, cruel, inhuman and degrading treatment and punishment, and TORTURE (as defined by Article 16 and Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - UNCAT) are prohibited acts that do not require a State's consent to be bound to the UNCAT or to customary international law. The taking of jurisdiction by a court is a form of control (custody by proceedings) under which information is coerced or intimidated out of the pro se litigant by judges and courts, and wherein they are subjected to prohibited acts, including the failure of diligently affording all protections, rights, privileges and immunities to the pro se litigant causing severe pain and suffering to them in the ordinary course of the judicial process. It is the blind obedience to systemic standards and norms in jurisprudence that is a great danger to judges and the performance of their ethical and professional obligations. When examined under the light of human rights treaties, customary rules, procedures and policies of courts infringe upon and eliminate non-derogable rights by mandate of deficient and absent precedents. When compounded with the refusal of recusal by an offending judge on the basis of misapplication canons of judicial conduct, intent to commit the prohibited acts may readily be derived. The danger for each judge is that these prohibited acts are criminal with no statute of limitations and penetrate State and individual immunities that judges mistakenly assume to be in effect.

³ Refer to the prohibition of cruel, inhuman and degrading treatment or punishment, which includes the deprivation of constitutional due process, in the UNCAT (which also prohibits torture) and the ICCPR and the CRPD (which also

Constitution⁴. This pervasive judicial conduct persists even despite notice of impeachment and ethics disqualifications and injunctions. The publication of these findings as educational and academic works are pending, and will be available soon.

You are the chief judge of the Fourth Circuit, and have the power to influence the judicial process in your Circuit through various mechanisms. Based upon the very first case referred to my attention in your Circuit, there appears to be a match with the statistical forecast. Therefore, I write to inform you personally, that based on validated statistical sampling, the same prohibited judicial conduct seen elsewhere is likely in force in your Circuit, by virtue of uniform judicial policy, and will test and inevitably compromise your judges and litigants. Urgent attention is required to prevent harm to good men and women who intend public judicial service, to protect litigants and victims, and to mitigate further erosion of trust in this nation's courts⁵.

Based on statistical findings, no judge recognizes human rights treaties as a consideration in the customary course of domestic jurisprudence. And no canon of judicial ethics mandates observance of the UDHR⁶ or human rights treaties, when in contrast, ethics by definition must embrace human rights. This is in part because the historical roots of jurisprudence lay in monarchic rule, and its evolution within society is radically distinct from the innate nature of the human being and the needs of modern society, requiring long-overdue modification and modernization, and also because precedent is extremely thin in this regard. Yet the *jus cogens* of customary international law has no patience, and leaves no room for such excuses, or judicial negligence, or overt disobedience. And today, around the country, there is growing public disquiet with the standards of jurisprudence and the poor perception of justice delivered through the courts.

prohibits discrimination based on disability). Refer to the UN Charter which prohibits the human rights violations which I have referenced in disqualification motions against your judges. UNCAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; ICCPR: International Covenant on Civil and Political Rights; CRPD: Convention on the Rights of Persons with Disabilities

⁴ “on one level, because the Bill of Rights codifies a very large and progressive view of human rights and because the Bill of Rights is part of the Constitution, which is the highest law of the land, it could be argued that in any case invoking the Bill of Rights, the law of human rights has always been treated as the rule of decision in U.S. courts.” Seinfeld, Gil. "The Puzzle of Complete Preemption." U. Pa. L. Rev. 155, no. 3 (2007): 537-79. However, in the case of the disabled pro se litigant, human rights are eliminated by judges as a pervasive feature of jurisprudence that is discrimination by the courts.

⁵ See for example the American Bar Association's Resolution 400 – SCOTUS evades a legitimate code of judicial ethics. See also the ABA president's letter to SCOTUS in August 2023 reporting its lowest judicial legitimacy in history

⁶ Universal Declaration of Human Rights

In particular, human rights treaties are generally ignored and eliminated in US jurisprudence, despite their integral resonance with the US Constitution. Some, such as the UNCAT⁷, express absolute prohibitions under the *jus cogens* of customary international law, which is highly respected by the US Constitution but disrespected by our courts. No State or sovereign or judicial immunity, or ignorance of law, may absolve or ameliorate criminal liability for any judge or public official, or for any individual acting under color of authority, when violations of human rights occur which are designated under treaties and *jus cogens* as absolutely prohibited. This is the case with torture and with cruel, inhuman and degrading treatment.

Of note is that some judicial conduct may constitute human rights violations, creating culpability by judicial action, and other judicial conduct may constitute acquiescence to human rights violations which create culpability by inaction. Both the culpability for violation of human rights, and criminal culpability, must be prevented for the sake of judge and litigant. What is most important, like other instances of law where an educational process was required, is to see the prohibited conduct not through the lens of our judges conventions, but to learn to see them through the lens of those impacted and how they are seen by human rights treaties and *jus cogens*. The two points of view are vastly different and irreconcilable at present.

Customary jurisprudence is entirely inattentive to these major sources of liability and harm, and has provides no mechanism for punishing them, further violating *jus cogens* and treaty compliance. One key implication for you and your Circuit is that when your judges infringe upon these operative laws, there is no statute of limitations and no finality to suits. In an evolving domestic society where the People are increasingly attentive to their rights, and demanding higher standards from their government and their courts, wisdom dictates reform and elevation of human rights without further delay. A tide of change and retribution is headed for our courts, and this must be addressed wisely and the public trust in the courts justifiably inspired. We must not neglect to keep our judges out of the path of scorn, distrust and indefensible liability.

Constitutional & International Framework

The Articles of Confederation displays essential respect for customary international law, and incorporates it as a preeminent authority upon which the union of states

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

relies. The Republic would not have survived its nascent origins absent its critical dependence on treaties and the operation of customary international law. The US Constitution takes this respect and incorporation further by ensuring uniform obedience by the states to treaties and customary international law, and leaving room for growth under Article VI (“all Treaties made, or which shall be made”). The “Supreme Law of the Land” integrally commands respect for (human rights) treaties, and holds treaties equal to the Constitution itself. At its founding, the republic wanted to be equal among nations in credibility and ability to form treaties and coexist and thrive as a unit, as one State, in the global arena of States (nations in the world). Thus a mechanism was created to readily expand the Constitution itself through treaties (Article VI), without requiring the rigors of state consent required for Constitutional Amendments.

Note in particular that the text of the US Constitution holds treaties at par with “[*the Constitution, and the Laws of the United States which shall be made in Pursuance thereof;*” (note the semi-colon). This text is mistakenly interpreted in the sparse and inattentive reading of human rights treaties within precedents as subjecting (human rights) treaties to modification by later-in-time federal statutes. Thus the importance of a semi-colon in the deprecation of the text of Article VI by our judiciary is underestimated, leading to significant judicial error, and undeterred prohibited acts.

As the history of law in the United States abundantly demonstrates, it is of special importance that the principles of human rights, expressed in the Universal Declaration of Human Rights (UDHR) following the lessons of World Wars, operate as keys to revealing the un-enumerated rights enshrined in the US Constitution. Our Constitution has been a historical inspiration to the formulation of human rights principles and standards, and a light that fostered global focus on the primacy of human rights as a baseline for world peace⁸. And historically, judicial derivations of un-enumerated rights from the US Constitution comport with the UDHR. It is no coincidence that we were the first of nations who unequivocally embraced the UDHR and the UN Charter, since these inherently resonate with our Constitution and our national morality. And our destiny is to blaze the trail of world human rights, if we only untie our own self-imposed shackles.

⁸ Note in Senate Executive Report 101-30, and in the initial and periodic reports by the USA to the CAT how we express national pride about our human rights leadership among nations

It is the un-enumerated rights, reserved to the People, which provide the platform upon which I speak with concern to help “establish Justice” per the object and purpose of the US Constitution, expressed by its Preamble. The freedom from torture and cruel, inhuman and degrading treatment is enshrined in the US Constitution, but no judge and no court is permitted to discern it by virtue of pervasive and uniform judicial policy. Since judicial reform requires the cooperation of all men and women of “good Behaviour”, I rely on your good judgment and listening ear on behalf of your Circuit judges to unleash the potential latent in this nation’s judiciary to unfailingly “establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity”⁹, and restore our standing and world leadership in human rights. Please indulge my compassionate counsel.

The Supremacy Clause is unequivocal: treaties are binding on judges in every state¹⁰. While I focus on original derivation from the Constitution, treaties and *jus cogens*, and deprecate reliance on treaty precedents which are inferior by their breadth and depth of coverage of issues related to human rights, a review of precedents supports my argument. In *Ware v. Hylton*¹¹, the Supreme Court invalidated a Virginia statute in conflict with the Treaty of Paris, underscoring that treaties override contrary state law. In *Missouri v. Holland*¹², the Court affirmed the federal treaty power as a source of domestic law independent of state authority. These precedents foreclose the notion that judges may disregard treaties at will.

It is true that in *Medellín v. Texas*¹³ the Court held that certain treaties are not domestically enforceable absent implementing legislation. But *Medellín* did not erase judicial responsibility, and skirted around the core issues herein discussed. Non-self-execution is a rule of domestic allocation; it does not absolve the United States of its binding international obligations¹⁴. Nor does it relieve judges of their interpretive duty under *Charming Betsy*¹⁵ to construe statutes in harmony with treaty commitments. And it

⁹ The object and purpose of the US Constitution, expressed by its Preamble, must be reflected in every action and every decision by every judge in every court

¹⁰ U.S. Const. art. VI, cl. 2

¹¹ *Ware v. Hylton*, 3 U.S. (3 Dall.) 199 (1796)

¹² *Missouri v. Holland*, 252 U.S. 416 (1920)

¹³ *Medellín v. Texas*, 552 U.S. 491, 504–05 (2008)

¹⁴ *Id.* at 504

¹⁵ *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804)

does not foreclose prospective relief against state officials under *Ex parte Young*¹⁶ where ongoing violations can be tied to constitutional or statutory rights read in light of UNCAT.⁷

But precedent and established judicial norms, customs and policies are dangerous patterns and practices to follow. The prohibition of torture is *jus cogens*: a peremptory norm from which no derogation is permitted¹⁷. The International Criminal Tribunal for the Former Yugoslavia confirmed in *Furundžija* that no official position or domestic law can justify torture¹⁸. U.S. courts have themselves recognized torture as a violation of the law of nations actionable under the Alien Tort Statute¹⁹. And despite the reflection of human rights and human rights treaties in the facts and harm pleaded or emergent in innumerable court actions, the People are systemically discouraged and obstructed from expression of their human rights grievances and complaints. This requires judicial reform at the highest levels in the judiciary.

The Vienna Convention on the Law of Treaties²⁰ codifies customary international law principles: reservations that defeat a treaty's object and purpose are invalid (Article 19(c)²¹), and *jus cogens* norms override inconsistent treaties (Article 53 – the modifications of the UNCAT by the USA are void)²². At minimum, judges interpreting RUDs must construe them narrowly to avoid nullifying U.S. ratification of UNCAT. The Constitution's command that treaties are “supreme Law of the Land” leaves no room for judicial indifference.

¹⁶ *Ex parte Young*, 209 U.S. 123 (1908)

¹⁷ *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980)

¹⁸ *Prosecutor v. Furundžija*, Case No. IT-95-17/1-T, Judgment, ¶ 153 (Int'l Crim. Trib. for the Former Yugoslavia Dec. 10, 1998)

¹⁹ *Filártiga v. Peña-Irala*, supra (Recognized that deliberate torture under color of official authority violates universally accepted norms of the law of nations and is actionable under the Alien Tort Statute. See also *Sosa v. Alvarez-Machain*, 542 U.S. 692, 732–35 (2004) (affirming torture as a “specific, universal, and obligatory” norm while narrowing ATS use)

²⁰ The reflexive argument that is readily and inconsiderately applied is that the USA did not ratify the VCLT. With respect to the VCLT's commemoration of customary international law and *jus cogens*, the VCLT requires no ratification. The ratification by various nations builds a textual foundation for codification, but does not rewrite the history of *jus cogens*.

²¹ “Article 19: Formulation of reservations. A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless: (a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) in cases not falling under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.”

²² “Article 53 : Treaties conflicting with a peremptory norm of general international law (“jus cogens”). A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”

I refer you now to Appendix 5, which provides a brief description of a constitutional framework for closing the gap between customary jurisprudence and customary international law embedded in Article VI through human rights treaties.

Case Study: Betts v. North Carolina, 4th Circuit

A. Procedural Background

In May 2025, Ms. Amy Betts, a disabled and indigent mother proceeding *in forma pauperis*, filed a civil rights complaint in the Middle District of North Carolina²³. She alleged that state courts had enforced an invalid eleven-year-old custody order without jurisdiction, subjecting her to repeated arrests, forced separations from her child, and systemic discrimination²⁴.

Magistrate Judge Webster screened her complaint under 28 U.S.C. § 1915(e)(2)(B) and recommended dismissal as “frivolous.”²⁵ His recommendation did not distinguish whether dismissal was based on lack of jurisdiction, failure to state a claim, or factual insufficiency²⁶. District Judge Schroeder adopted the recommendation²⁷. The dismissal assumes that the higher court will immediately understand the basis for the lower court’s dismissal order without requiring explanation: this is a significant fact in this educational analysis.

Betts appealed. On August 25, 2025, your Appeals Court summarily dismissed her appeal No. 25-1607 for lack of jurisdiction, offering no analysis of her unrecognized substantive allegations. In effect, no tribunal examined her claims through the lens of either constitutional guarantees or treaty obligations under UNCAT. In less than 4 months, Betts was ejected from the federal courts, without investigation²⁸, relief, remedy or punishment.

²³ Complaint, *Betts v. North Carolina et al.*, No. 1:25-cv-341 (M.D.N.C. filed May 1, 2025), ECF No. 2

²⁴ *Id.*

²⁵ Order & Recommendation of United States Magistrate Judge Webster, *Betts*, No. 1:25-cv-341 (M.D.N.C. May 5, 2025), ECF No. 7

²⁶ Note that under *Ex parte Younger*, although Betts named judge Melinda Crouch, and at least one other employee of the North Carolina New Hanover County District Court, Betts did not plead facts or seek declaratory relief that the federal district court recognized under *Ex Parte Young*

²⁷ Order by Judge Schroeder, *Betts*, No. 1:25-cv-341 (M.D.N.C. May 19, 2025), ECF No. 12

²⁸ Independent investigation is a key component in the of enforcement of human rights – see Istanbul Protocol below

B. Substantive Allegations

A detailed preliminary analysis of the Betts federal complaint is provided in Appendix 1 to this letter. The analysis would be a likely starting basis for an investigation of judges and courts were the UNCAT properly implemented in the United States, so I recommend a careful reading of that Appendix first. In brief, Betts alleged, among other things:

1. That the custody order at issue was void for want of jurisdiction by virtue of uncorrectable constitutional violations²⁹.
2. That enforcement of the order resulted in repeated arrests and forced separations, inflicting severe psychological suffering upon both mother and child³⁰.
3. That state court staff and officials obstructed her attempt to file an independent civil rights complaint by reclassifying it as a custody motion, preventing impartial review, and claims under applicable laws and equity³¹.
4. That these practices are consistent with systemic discrimination against mothers, disabled litigants, and indigent families³².

These allegations—though imperfectly pleaded³³ by a pro se litigant using limited resources and naturally limited legal knowledge and struggling to translate a perceived injustice into a legally actionable complaint—track the types of claims the Istanbul Protocol³⁴ identifies as human rights complaints for potential instances of torture or CIDT: coercive child separation, discriminatory judicial practices, deprivation of rights and repeated use of force against vulnerable litigants³⁵.

The Betts action should, even if merely in an abundance of caution, be considered a human rights complaint invoking the UNCAT (and other applicable human rights

²⁹ Complaint, *Betts v. North Carolina et al.*, supra

³⁰ Id.

³¹ Id.

³² Amicus Brief of Aidileys, *Betts*, No. 1:25-cv-341 (M.D.N.C. May 1, 2025), ECF No. 2-1 pp 16-19

³³ We can see deficiencies in the complaint, for example, although Betts named judge Melinda Crouch, and at least one employee of the North Carolina New Hanover County District Court, Betts did not plead facts or seek declaratory relief that the federal district court recognized under *Ex Parte Young*. What is important is that the absence of a necessarily detailed statement of decision creates a presumption that operates detrimentally to the court, to the magistrate, to the trial judge, and to the Court of Appeals.

³⁴ Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. HR/P/PT/8/Rev.1, at 29 (2022). The Istanbul Protocol, also known as the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is the first set of international guidelines for the assessment, investigation, and documentation of torture and ill-treatment.

³⁵ ‘Amicus’ Brief of Aidileys, supra

treaties). It is apparent that she was acting under urgency and duress and was not aware of the material facts or know the law to apply that form and control her federal human rights complaint. In cases when individuals are under duress, they may not even cognize the material facts even though these facts are playing out in plain sight. Instead, Betts' writings have the very clear signature of her use of a single AI, which harvests existing works of others, and which saw no predictions of human rights in the operations of our courts. This single AI (chatGPT³⁶) recommended to her how to state her complaint in a conventional way to avoid dismissal and to urgently seek relief and remedy. She did not employ the necessary approach for AI use to overcome its major limitations.

C. Supporting Amicus

The Betts federal complaint was accompanied by an 'amicus' submission from Aidileys³⁷, a nonprofit advocacy organization³⁸. The complaint and amicus are discussed in preliminary detail in Appendix 1. The brief catalogued systemic barriers in North Carolina custody proceedings and elsewhere, including patterns of coerced compliance, denial of ADA protections, and prejudicial treatment of vulnerable parents. As an independent investigator, the amicus speaks consistently with my statistical measurements of systemic judicial policy in California, and the Ninth and Tenth Circuits, and the US Supreme Court (pending publication). While not a substitute for evidence in domestic courts, this 'amicus' contextualized Betts's experience as part of a broader, recurring pattern. In the investigation of torture and CIDT, the Aidileys 'amicus' points to a doorway to evidence capturing a historical and current state of affairs, and would not be dismissed out of hand under a standards-based human rights investigation.

D. Federal preemption

The federal judiciary have the preemptive responsibility to adjudicate treaty-based violations. The Articles of Confederation remind us that the federal government must and will expect the states to comply with treaties³⁹, and thus comity may not bar the

³⁶ The author is very familiar with the characteristics of multiple AI and their versions, their strengths, weaknesses, hallucinations, 'lies', internal limitations, typical outputs and other features which limit their direct use for legal pleadings. These characteristics can be used to identify them.

³⁷ Id.

³⁸ Identifies itself as a "non-profit, nonpartisan advocacy organization" (page 16 section I), confirmed by my checking with the IRS as being a non-profit corporation with EIN 82-1460176 (since 2017)

³⁹ Without strict adherence by the states to the rule of treaties, no treaty could credibly be agreed and formed, with due faith by treaty partners in its enforceability. The feasibility of treaty formation by all states in unison under one entity required the formation of the Union and the unmistakable evidence of commitment by its constituent states to the terms and performance of each treaty. The Articles of Confederation were the confirmatory document evidencing the authority of the federal government to bind the Union to treaties. See the history of the Articles of Confederation.

taking of jurisdiction by the federal judiciary in the matter of treaties, and adjudication that penetrates state sovereignty under the standard applicable to the treaty. Thus it is valid and necessary for the federal courts to preemptively issue the order for independent investigation if the state court does not, when substantive grounds may be present, consistently with the Istanbul Protocol. But in the Betts case, her state civil rights complaint, which may and should be construed as a human rights complaint, was rejected and not filed, and the federal court took no action on her human rights complaint.

The ‘mess’ created by untenable congressional evasion of UNCAT-required domestic legislation⁴⁰ balances departure from the US Constitution⁴¹ versus departure from customary international law, and avoids resolving the real issues through legislation and reform that is required by human rights treaties, and within the authority of Congress. We leave it for other nations to ‘clean our house’⁴².

When Congress addressed such an issue of relative sovereignty of states versus the federal government in the Americans with Disabilities Act, it pierced the 11th Amendment by express use of the language: “*the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities*”. But with respect to torture law which is considered by the world as an absolutely prohibited act, it ‘did nothing’.

You and every judge are facing a ‘mess’ of constitutional proportions which is identified as being of criminal proportions by the authority on UNCAT⁴³. Its ‘clean up’ presents a daunting prospect, including the perception of ‘defiance of Congress’ which naturally causes every judge to squirm and withdraw from even daring to open the can of worms on public display. This is not a small problem. The UNCAT is ratified, and as an absolute of jus cogens, may not be met with withdrawal from the treaty, required by VCLT. The judiciary are placed front and center in responsibility for correction and reform to bring US compliance into reality. At this point, we must pause and remember

⁴⁰ See in particular Senate Executive Report 101-30.

⁴¹ Obedience of treaties is an Article VI mandate

⁴² Under UNCAT Article 21, a State may file a complaint against the United States for violation of the UNCAT.

⁴³ Comm. Against Torture, Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States, ¶ 14, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014)

Marbury v. Madison and the unfailing obligation of the judiciary commemorated thereby.

E. Judicial Response

At the district level, dismissal under § 1915(e)(2)(B) was entered without analysis. The Appeals Court’s summary dismissal for lack of jurisdiction compounded the problem. According to the custom of jurisprudence and from a purely doctrinal perspective, judges defend these outcomes by invoking *Rooker–Feldman*⁴⁴, *Younger* abstention⁴⁵, or the domestic-relations exception⁴⁶. But from a constitutional and treaty perspective, the result is troubling: allegations plausibly implicating CIDT were never evaluated under UNCAT Articles 12–14⁴⁷, which require prompt and impartial investigation⁴⁸ in the Betts case.

When the established norms of jurisprudence, here on display in the Betts case, and the expectations of treaty compliance under Article VI of the US Constitution, are weighed in the scales of justice, the balance tilts in favor of treaty compliance. The states willingly consented to federal rule, and federal rule is uncompromising on the preeminence of treaty

⁴⁴ *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005) -- This case clarifies the *Rooker–Feldman* doctrine: federal district courts lack jurisdiction over cases that, in substance, seek review of a state-court judgment. In family-law contexts, claims about “coerced compliance” with custody orders or injuries flowing from those orders are frequently treated as de facto appeals of the state judgment. Result: federal courts often dismiss for lack of jurisdiction rather than reach merits (like ADA-based objections or bias claims). Even though *Exxon Mobil* narrows *Rooker–Feldman*, the bottom line remains: if the injury is caused by the state custody order, the federal courthouse door is largely shut—i.e., a structural barrier to reaching the kinds of harms the brief catalogs.

⁴⁵ *Younger v. Harris*, 401 U.S. 37 (1971) -- *Younger* abstention tells federal courts not to enjoin ongoing state proceedings where important state interests are involved and the litigant can raise federal issues there. Child-custody enforcement (contempt, compliance hearings) squarely implicates vital state interests. So even if a parent alleges ADA violations or prejudicial practices in those ongoing proceedings, federal courts will typically abstain rather than intervene. That abstention operates as a systemic, procedural barrier to getting federal review of those alleged rights violations in real time.

⁴⁶ *Ankenbrandt v. Richards*, 504 U.S. 689 (1992) -- *Ankenbrandt* reaffirms the domestic-relations exception (especially in diversity cases): federal courts generally do not issue or alter divorce, alimony, or child custody decrees. In practice, when claims are intertwined with custody status or enforcement, courts are wary of exercising jurisdiction even on related federal questions. That judicial caution means allegations like “coerced compliance,” ADA mis-accommodation in custody proceedings, or prejudice against vulnerable parents are often rebuffed as too entangled with core custody matters—again creating a structural barrier to federal adjudication on the merits.

⁴⁷ “Article 12: Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13: Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14:

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.”

⁴⁸ The Istanbul Protocol sets the standard on the implementation and enforcement of UNCAT investigation and protections

supremacy. This is reinforced by state Constitutions. Treaties are interpreted and enforced according to the *jus cogens* of customary international law, which are thus incorporated in Article VI. Under the assurance of ‘equivalence’ of customary jurisprudence and UNCAT-direct-enforcement jurisprudence, the outcomes of the ‘equivalent’ judicial processes must be substantively identical. They are not.

F. Jurisdictional impasse

Separation of Powers dictates that Betts’ complaint for human rights against the judiciary must be directed to the judiciary. Federal preemption permitted Betts to choose forum, and *forum nullus* in the state court required it. Incidentally, her complaint was not filed by the state court. Article VI and the CAT’s 2014 Concluding Observations dictate that the judiciary must take jurisdiction over a human rights complaint alleging torture and CIDT, and act according to customary international law and human-rights-compliant ethics⁴⁹. Thus the federal courts may not delegate or pass on Betts’ claims.

Alternate pathways to relief, remedy and punishment through the courts do not exist under domestic law, or within law enforcement vocabularies. Betts has no other avenue to access relief or remedy than to seek protection from the federal court, because the crux of her complaint is that the state court is *forum nullus* by judicial policy that impermissibly limits or extinguishes human rights.

Torture and CIDT are not properly criminalized by domestic statutes⁵⁰ as required by Article VI and the UNCAT, and courts control the self-execution of UNCAT which contradicts *jus cogens* and the CAT 2014 Concluding Observations. Therefore Betts cannot access relief or remedy or punishment through law enforcement or alternate pathways because the investigation and prosecution of crime by the executive branch and relief and remedy for harm done depends upon the constitutional functioning of the very courts identified by Betts as perpetrators of human rights and constitutional violations against herself and her offspring.

Furthermore, any independent investigation that is compliant with the necessary human rights standard⁵¹ must be entirely independent of the branches of government,

⁴⁹ Bangalore Principles, *infra*

⁵⁰ Comm. Against Torture, Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States, ¶ 14, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014), UN Istanbul Protocol

⁵¹ Istanbul Protocol, *supra*

especially those whose policies and practices are implicated. However, each branch of government operates as if this essential requirement imposes on its independence and sovereignty, and rejects the imposition, thus further violating Article VI, which respects treaty compliance expected according to *jus cogens*, and thereby integrates the international standard which the court violate.

G. Lessons of Betts

The lesson is painfully plain: under the current structure, pro se human rights claims may be disposed of without meaningful judicial review. Even if courts deem Articles 1–16 of UNCAT non-self-executing, the Constitution requires more than perfunctory dismissal. The non-derogability of the human right of freedom from torture and cruel, inhuman and degrading treatment means that no judge may pass on its applicability to the facts pleaded when the treaty is not. Judges remain bound by Article VI to treat such complaints with seriousness, to articulate the basis of dismissal, and to interpret domestic law in harmony with treaty commitments.

Betts' complaint in the District court was against the state court(s), and mushroomed into a human rights complaint against the state court(s) **and** the federal District court when it reached the federal Appeals court. This was not recognized by either court in this Circuit. Labeling allegations of CIDT as “frivolous” without explanation trivializes *jus cogens* norms and undermines the United States' credibility and respect within the international community. That practice is not merely poor judicial management—it is complicity in violations that the world has declared preemptory and non-derogable.

Under the light of UNCAT, Betts' right of action has no statute of limitations and the violation is inherently a criminal act. Therefore, under the lens of human rights, Betts appears to have filed a timely, proper and lawful complaint for violation of her human rights, **requiring jurisdictional acceptance, protection, an independent investigation, and stay pending the findings of the investigation.** According to the international standard, adjudication of her human rights complaint for UNCAT violations may proceed only after the investigation.

The UNCAT Problem: RUDs, Declarations, and *Jus Cogens*

A. Reservations and Understandings that Hollow Out UNCAT

When the United States ratified UNCAT in 1994, it attached a package of reservations, understandings, and declarations (RUDs) that dramatically narrowed the treaty's scope in contravention of the treaty and customary international law⁵². These included⁵³:

- A reservation impermissibly delegating the federal government's enforcement of UNCAT to the states, at their discretion;
- A reservation impermissibly limiting the obligation under Article 16 (CIDT) to conduct that violates the Fifth, Eighth, or Fourteenth Amendments, with the reference by Congress in Sen. Exec. Rpt. 101-30 that these Amendments "roughly" are equivalent to the UNCAT⁵⁴;
- An "understanding" impermissibly redefining torture to require specific intent to inflict severe pain or suffering;
- An impermissible "understanding" that torture occurs only in situations involving custody or physical control;
- An impermissible declaration that Articles 1–16 are non-self-executing.

The impermissibility of the RUDs and the concurrence of the Committee Against Torture, as the recognized highest authority on torture and CIDT, are discussed in preliminary detail in Appendix 2 to this letter. Taken together, the RUDs stripped UNCAT of its protective force in U.S. courts. The RUDs narrowed torture to a vanishing point, excluded systemic psychological harm, and declared the most important remedial provisions

⁵² Note the differences between Senate Executive Report 100-20 establishing the US RUDs and compare with the Senate Executive Report 101-30 discussing the RUDs, and the final instrument of ratification deposited by the United States with the United Nations.

⁵³ See detailed analysis and discussion in Appendix 2

⁵⁴ On Page 8, Section 2, paragraph 2 of the Senate Executive Report 101-30, we find: "*The administration takes the position that the reference in article 16 to "cruel" and "inhuman" treatment or punishment **appears to be roughly equivalent** to the treatment or punishment barred in the United States by the 5th, 8th, and/or 14th amendments to the Constitution. However, "degrading" treatment or punishment has been interpreted, for example by the European Commission on Human Rights, to include treatment that would probably not be prohibited by the U.S. Constitution and may not be illegal in the United States. In view of the ambiguity of the terms, the administration believes that U.S. obligations under this article should be limited to conduct prohibited by the U.S. Constitution.*" Note that the instrument of ratification of the UNCAT deposited with the United Nations differ from the RUDs discussed in this report.

unenforceable domestically. Courts reflexively compound these defect by treating these RUDs as absolute bars to private litigation⁵⁵.

B. Incompatibility with Treaty Object and Purpose

A reference for international law and judicial responsibility is provided in Appendix 3. A Quick Reference is in Appendix 4.

Under international law, these RUDs are invalid. The Vienna Convention on the Law of Treaties (VCLT), widely recognized as the commemoration of the *jus cogens* of customary international law⁵⁶, provides that a reservation is impermissible if it is “incompatible with the object and purpose” of the treaty⁵⁷. Article 53 further declares that treaties conflicting with peremptory norms of general international law (*jus cogens*) are void. The UNCAT as modified by the RUDs does not comport with *jus cogens*. The USA cannot withdraw from an absolute prohibition under *jus cogens*, and has repeatedly ‘boasted’ about its role in the formulation and establishment of UNCAT. This indicates expert knowledge of its object and purpose. The reservation, understandings and declaration discussed in Appendix 2 have already been found to be non-essential and severable by the Committee Against Torture, whose authority the United States has recognized in its instrument of ratification⁵⁸.

The object and purpose of UNCAT is unequivocal: to prevent torture and CIDT under all circumstances, without loophole or derogation⁵⁹. The CAT recognizes a soft boundary between torture and CIDT requiring both to be absolutely prohibited. The U.S. reservation limiting Article 16 to constitutional standards undermines this object by denying remedies for conduct that falls short of torture but nonetheless inflicts severe pain and suffering. The understandings that insert “custody” and “specific intent” requirements likewise narrow the scope of protection in ways incompatible with UNCAT’s purpose.

By ratifying with such conditions, the United States attempted to accept the treaty while gutting its substance. Under the VCLT framework, and under the confirmatory scrutiny

⁵⁵ Contemplate the extraordinary result of the RUDs: that a right conferred individually upon the People may only be enforced by a foreign nation through the International Courts.

⁵⁶ Although the USA did not ratify the VCLT, it is bound by the VCLT to the extent that it is a commemoration of the *jus cogens* of customary international law

⁵⁷ VCLT 19(c)

⁵⁸ See <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/iv-9.en.pdf> pp 7-8

⁵⁹ UNCAT, pmbL, art. 2(2)

by the CAT, such RUDs are void and severed. This gutting continues, requiring judicial correction.

C. Jus Cogens and Non-Derogability

The prohibition of torture is a *jus cogens* norm: it binds all states at all times, regardless of treaty status⁶⁰. The ICTY in *Furundžija* confirmed that no domestic law or official capacity can justify torture⁶¹. The U.S. Supreme Court in *Sosa v. Alvarez-Machain* recognized torture as a “specific, universal, and obligatory” norm under customary international law⁶².

Because *jus cogens* norms are hierarchically superior (see Appendix 5), domestic reservations that purport to narrow or deny them are without legal effect internationally. A state cannot ratify a treaty on torture while simultaneously reserving to itself the right to permit conduct amounting to CIDT. This principle applies with full force to the U.S. RUDs.

D. Domestic Consequences of Invalid RUDs

No Article III judge may uphold and enforce the US RUDs.

Even if U.S. courts continue to accept the non-self-execution declaration as binding for purposes of creating a private right of action, judges cannot treat the RUDs as an excuse for total disengagement. Article VI of the Constitution makes treaties “supreme Law of the Land” without interruption. At a minimum, courts must:

1. Construe statutes and doctrines consistently with treaty commitments (*Charming Betsy*)⁶³;
2. Recognize that *jus cogens* norms inform constitutional interpretation and due process;
3. Decline to dismiss allegations of CIDT as frivolous, given their grounding in peremptory norms;

⁶⁰ CAT General Comment No.2, Istanbul Protocol, US Initial Report to the CAT

⁶¹ *Furundžija*, supra

⁶² *Sosa v. Alvarez-Machain*, 542 U.S. 692, 734 (2004)

⁶³ *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804)

4. Permit injunctive relief against state officials under *Ex parte Young* where constitutional rights overlap with treaty obligations, and ensure injunctions when absolute prohibitions under *jus cogens* apply.

The judiciary's current practice of treating RUDs as categorical bars is thus not required by *Medellín* or any controlling precedent, and forbidden by customary international law⁶⁴. It is a choice—a choice that transforms treaty obligations into nullities and places judges themselves in the posture of acquiescing in conduct the world has declared to be criminal.

E. The Fourth Circuit's Role

This courts of the Fourth Circuit are not powerless. They must restore constitutional rule under the supreme Law of the Land, protect our national security and preserve the international order. They will not cause a constitutional crisis and breach Separation of Powers through corrective action, but through absence of corrective action.

Judges may perceive that they cannot rewrite the Senate's conditions, and at best they can ensure they are not expanded beyond their terms. This will not bring consistency with Article VI and the Concluding Observations of the CAT.

This Circuit may implement a policy that, at a minimum, requires its federal district courts to specify the grounds for dismissal of human-rights complaints. It can construe domestic law in harmony with treaty obligations. And it can signal, through reasoned opinions, that the judiciary will no longer treat *jus cogens* norms as optional.

But it must go beyond this: through its chief judge, this Circuit must inspire judicial reform to modify rules, procedures and policies, with education and training for all judges and monitoring and quality controls for continuously enhancing excellence.

For this Circuit's courts to recognize and stay a complaint like *Betts*, and to initiate an independent investigation into human rights violations, each judge must be clear about the domestic applicability of UNCAT and its standard-compliant invocation by the affected individual, and provide protection, relief, remedy and punishment consistently with the international standard expressed in the Istanbul Protocol

⁶⁴ The Concluding Observations of the CAT are likely to bring consistent advisory opinions by the International Court of Justice in the event of a UNCAT complaint by States

Failure to act perpetuates a systemic defect: the routine evasion of the Constitution's command that treaties are supreme Law of the Land. That failure is not merely a matter of prudence. It is complicity.

IV. Judicial Liability, Ethics, and Immunity

A. Domestic Immunity Doctrine

It is true that judges have granted judges broad immunity from civil damages⁶⁵ for acts taken in their judicial capacity⁶⁶. Even judicial malice and corruption are permissible, and their protection is, arguably, encouragement of human rights violations. The Supreme Court in *Stump v. Sparkman*⁶⁷ reaffirmed the broad immunity doctrine, citing the need for judicial independence. But even domestically, immunity is not absolute. Judges are subject to impeachment, disciplinary mechanisms, and prospective injunctive relief under *Ex parte Young* where ongoing constitutional violations are alleged⁶⁸. They also forfeit immunity for acts taken in the clear absence of jurisdiction⁶⁹. This is legal theory.

In the *Betts* case, the problem is not that judges were sued for damages but that her allegations of CIDT were dismissed as frivolous without consideration and reasoned analysis. Immunity does not license judicial indifference. The Constitution commands judges to treat treaties as supreme Law of the Land; immunity doctrines do not excuse systemic abdication of that command. Under the UNCAT, criminal charges are contemplated. The Constitution, speaking about its betrayal, is ungracious.

B. International Standards: No Immunity for Jus Cogens Violations

The prohibition of torture is a *jus cogens* norm⁷⁰. Under international law, no state official may invoke immunity to shield violations of *jus cogens*. The ICTY in *Furundžija* held unequivocally that torture can never be justified by official position or domestic law⁷¹. The

⁶⁵ The doctrine of absolute judicial immunity is a judicial creation, not a constitutional mandate. It was intended to protect judges from frivolous lawsuits and to allow them to make decisions without fear of personal liability. However, it has been perverted into a tool for shielding judges from accountability for even the most intentional and malicious constitutional violations. International law is clear on this point: there is no immunity for **jus cogens** violations, including torture.

⁶⁶ *Pierson v. Ray*, 87 S.Ct. 1213, 18 L.Ed.2d 288 (1967) “*The absolute immunity from suit for alleged deprivation of rights enjoyed by judges is matchless in its protection of judicial power. It shields judges even against allegations of malice or corruption.*” (quoted from *McCray v. State of Maryland*, (4th Cir. 1972) 456 F.2d 1, 3)

⁶⁷ *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978)

⁶⁸ *Ex parte Young*, 209 U.S. 123 (1908); *Pulliam v. Allen*, 466 U.S. 522, 541–42 (1984)

⁶⁹ *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 351–52 (1872)

⁷⁰ See e.g. Istanbul Protocol

⁷¹ *Prosecutor v. Furundžija*, *supra*

Committee Against Torture has reiterated that Article 2(2) of UNCAT admits no exceptions⁷².

While it is unlikely that U.S. judges will be haled into foreign or international tribunals for dismissing cases such as *Betts*, their current practice—categorical dismissal without review—places them in the posture of acquiescing in CIDT. That acquiescence itself is a form of complicity under international law.

C. Judicial Ethics and the Duty of Fidelity

The Code of Conduct for United States Judges requires impartiality, integrity, and fidelity to the law⁷³. But it is silent on treaties and international obligations. In contrast, the Bangalore Principles of Judicial Conduct—endorsed by the United Nations—require judges to respect human rights and the dignity of every person⁷⁴.

This gap in domestic judicial ethics contributes to the systemic defect. Judges may believe that by applying abstention doctrines or § 1915 screening they are fulfilling their ethical duties, while in reality they are ignoring treaty obligations and *jus cogens* norms.

Domestic judicial ethics must evolve to reflect the binding nature of international human rights law, harm to litigants and to the public trust, and to prevent criminal liability to judges.

D. The “Frivolity” Trap as Judicial Misconduct

Labeling torture and CIDT complaints as “frivolous” without explanation trivializes allegations of the gravest human rights violations. The Istanbul Protocol warns against dismissing such claims solely for defects of form. When courts apply § 1915(e)(2)(B) as a blunt instrument, they not only deny access to justice but also create a record of judicial complicity in treaty violations.

To be clear: judges who persist in such practices are not merely exercising docket management. They are participating in a systemic pattern of denial that violates peremptory norms. Immunity doctrines shield them from civil liability, but they cannot shield them from the legal and moral fact that such dismissals constitute acquiescence in crimes.

⁷² Comm. Against Torture, General Comment No. 2, ¶ 26, U.N. Doc. CAT/C/GC/2 (Jan. 24, 2008)

⁷³ Code of Conduct for United States Judges, Guide to Judiciary Policy, Vol. 2A, Ch. 2 (Judicial Conf. 2019)

⁷⁴ Bangalore Principles of Judicial Conduct, U.N. Doc. E/CN.4/2003/65 (2002)

In fact the UNCAT requires not only mere jurisdictional action by federal courts. Articles 12-14 necessitate that the federal judiciary address issues of UNCAT compliance by the state judiciary, and by Congress, as explained under the Appendix 2 discussion of the impermissibility of the RUDs.

V. Proposal for Reform

A. Clarify Standards for § 1915(e)(2)(B) Dismissals

Courts must cease the practice of dismissing human rights complaints as “frivolous” without explanation. Judges must incorporate review for inherently-stated human rights violations. Where allegations implicate torture or CIDT, dismissals must specify whether they rest on lack of jurisdiction, failure to state a claim, or insufficient factual basis. Transparency is essential. Without it, courts trivialize *jus cogens* norms and abdicate their obligations under UNCAT Articles 12–14.

B. Independent Review of Human Rights Allegations

The Istanbul Protocol calls for impartial and independent investigation of torture claims⁷⁵. U.S. courts currently have no mechanism for such review. This Circuit’s courts should adopt an internal referral pathway—through the Judicial Conference or designated committees—for serious allegations implicating CIDT, which inherently are cause for systemic inquiry into judicial policies and processes.

Independent review of cases Like Betts must ultimately accord with the Protocol and be independent of the judiciary, since it is the judiciary and systemic judicial policies in force throughout the United States which are referenced by her federal complaint and her appeal, and supportive filings. Such an investigation does not reopen custody disputes; it ensures that complaints of torture are not discarded without substantive inquiry.

C. Integrate Human Rights into Judicial Ethics

Judicial ethics in the United States must evolve. The Code of Conduct must be read in harmony with the Constitution’s command that treaties are supreme Law of the Land⁷⁶. The Bangalore Principles must evolve domestic judicial ethics for the states and for the federal judiciary including the US Supreme Court, by preeminently incorporating consideration of human rights, as otherwise no national and effective deterrent to judicial complicity in torture and CIDT is adequately effected in judicial norms.

⁷⁵ Istanbul Protocol, Chapter III: Legal investigation of torture and ill-treatment

⁷⁶ U.S. Const. art. VI, cl. 2; Code of Conduct for United States Judges, *supra*

Judicial education should include UNCAT, *jus cogens* norms, CAT guidance, International Court advisory opinions, early federal common law, and interpretive canons such as *Charming Betsy*. Training judges to recognize and engage with human rights complaints is not optional; it is the bare minimum of constitutional fidelity.

D. Narrow Construction of RUDs

Even if U.S. RUDs are impermissibly treated as binding domestically, courts must construe them narrowly. The Article 16 reservation should not be read to erase claims that plausibly overlap with Fifth and Fourteenth Amendment protections. The non-self-execution declaration⁷⁷ should be read as limiting private causes of action, not as forbidding judicial interpretation consistent with treaty commitments⁷⁸. Judges must stop treating RUDs as categorical shields against all engagement.

E. Harmonize Abstention Doctrines with Treaty Obligations

Doctrines like *Rooker–Feldman*, *Younger*, and the domestic-relations exception cannot be applied mechanically where doing so nullifies peremptory treaty obligations. These doctrines admit exceptions; they must be interpreted in light of Article VI and the *jus cogens* prohibition of torture.

VI. Conclusion

Human rights treaties provide no quarter for arguments in defense of judicial violation. Infractions meet with the infinite patience of no statute of limitations for remedy, relief or punishment. Human rights are the anchor point in law where certain absolutes reign, and Article VI of the US Constitution welcomes them. In the international arena, all states acknowledge that human rights treaties provide a baseline for human rights, which are recognized as the mechanism of international peace and order, and essential to the security of each nation and its Peoples, and to the evolution of global human society and co-existence on one planet.

The Constitution is clear: treaties are supreme Law of the Land, binding on judges in every state, and including Article III judges whose “good Behaviour” must be consistent with the supreme Law of the Land. Yet courts, including this Circuit’s courts, have treated the Convention Against Torture as optional, discarding serious complaints with labels like

⁷⁷ UNCAT RUDs, *supra*

⁷⁸ US instrument of UNCAT ratification, *supra*

“frivolous” and hiding behind abstention doctrines and RUDs. This is not a commentary on the Betts case, but a general comment about the absence of fidelity to law; it is evasion.

The prohibition of torture is *jus cogens*. It admits no derogation, no reservation, and no excuse. When U.S. judges dismiss human rights complaints without substantive review, they are not merely managing dockets—they are acquiescing in violations of peremptory norms. Immunity may shield them from damages; it does not shield them from truth.

The CAT has ‘put the nail in the coffin of the US RUDs’, which it expects the US judiciary to confirm. The judiciary cannot lawfully avoid enforcement of anti-torture obligations, even in the face of domestic limitations. No political question is presented.

Reform is not optional. For the sake of Justice, judges and litigants, this Circuit’s courts are well-advised to informedly follow the guidance in Appendix 3 and address the “Critical Gaps and Challenges” and reform the judicial process, including:

1. Require transparency in § 1915 dismissals.
2. Thoroughly review judicial rules, procedures and policies to ensure express incorporation of human rights and treaties.
3. Establish or cooperate with independent review mechanisms.
4. Integrate human rights into judicial ethics.
5. At a minimum, construe RUDs narrowly to preserve treaty obligations, and more correctly, declare the RUDs non-essential and severed according to the Concluding Observations of the CAT.
6. Harmonize abstention doctrines with Article VI.
7. Establish an inter-court cooperation mechanism for addressing human rights complaints with minimal burden on the litigant and upon each court, to communicate and achieve harmonious and unified protection of inter-court human rights pending an independent investigation.

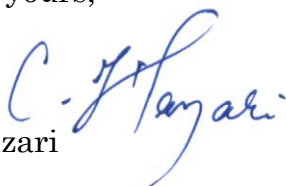
Failure to act perpetuates systemic complicity in crimes. Judges are our family, our friends, our neighbors, our acquaintances. All of us together, are blessed to be members of this nation that has been a light in the world. The judiciary must embrace reform not because it is convenient, but because it is bound by the national morality, by constitutional

mandate, by international law, by international judicial ethics, and the imperative of establishing Justice at all times so clearly stated in the Preamble to the US Constitution as its object and purpose.

When judges are already committing UNCAT-prohibited acts, it is leadership by a chief judge that can end systemic evasion and ensure that every judge of your Circuit is aware and fully honors their oath to uphold the supreme Law of the Land and “establish Justice”. I make that invitation to you personally by this letter⁷⁹.

I welcome your correspondence.

Sincerely yours,


Cyrus Hazari

⁷⁹ A copy of this letter will be provided to the Institute for the Advancement of Justice & Human Rights.

APPENDIX 1

APPENDIX 1: Does the Betts complaint state a human rights complaint?

The Betts federal complaint is clearly AI-generated¹. Since AI remains riddled with severe limitations² in constructing legal research and legal arguments, particularly in this rarely travelled domain of law, Betts remains at a significant disadvantage as an impoverished disabled indigent pro se litigant in expressing her grievance and accessing a test of merits. She does not know that her complaint is, in effect, a human rights complaint recognized by at least three human rights treaties³, including the UNCAT.

As a general rule, there is no established practice of pleading a human rights violation in domestic courts. Well-developed theories of law and statutory pleadings do not identify or recognize the primacy of human rights and their violation, unless the complaint is ‘squeezed into and transformed’ and stated under some other body of theory or law. But human rights treaties establish human rights as individually enforceable rights, and recognize private complaints for human rights violations. Betts appears to plead a human rights complaint.

When federal courts face numerous cases where judicial norms rapidly dispense with jurisdiction as in Betts, what can Betts offer in terms of judicial insight and policy change? After all, it may appear that a state court order took effect in a Family Law case outside the purview of the federal court’s jurisdiction, and the Fourth Circuit District Court is obligated under customary practice and comity to give Full Faith and Credit to the 2014 (11 year old) order,.

The judicial convention translates Betts’ complaint as the report of a state enforcement action (arrest, seizure of child) pursuant to an ‘unchallengeable’ state legal mandate,

¹ This is now a common pattern in the generation of court filings by pro se litigants, particularly as the legal system presents a significant financial burden to the majority of litigants. The pro se, in particular, come to courts, greatly disadvantaged and usually overwhelmed by the sophistication of procedure and substantive laws which exclude them from access by virtue of un-equalized opportunity for success by lack of knowledge and litigation experience compared to their opponent. Add (invisible) disability, and their case is statistically demonstrated to be lost from the very outset, irrespective of merit. They are told and treated equally to seasoned attorneys, by judges who operate on the basis of ‘law first’, not ‘human rights and dignity and humane access first’. The ‘dirty secret’ of federal courts, revealed by Seventh Circuit judge Richard Posner (“[m]ost judges regard pro se litigants as ‘kind of trash not worth the time’” – ABA Journal 9/11/2017), invariably repeats in their experience. Consequently, today, numerous independent groups around the country seek to abolish judicial immunities and to reform the judicial process.

² although it has shown exceptional progress in the past year

³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), Convention on the Rights of Persons with Disabilities (CRPD), International Covenant on Civil and Political Rights (ICCPR)

which is presumed to be enforced within its police powers. The federal judiciary must not ‘step on the state judiciary’s toes’ in such circumstances, says federal court policy. On the face of the Betts complaint, it may be alleged that insufficient facts are pled to justify further judicial scrutiny by a federal court.

How does Amy Betts’ complaint, ‘as-is’, invoke human rights treaties and Article VI federal question jurisdiction without specific pleading of any customarily-recognizable theory or law ... or facts?

Let us select the UNCAT for this discussion, and ignore for the moment the US Reservations, Understandings and Declarations (RUDs) upon which Congress conditioned the 1994 ratification of the UNCAT. I will discuss the invalidity and structural impermissibility of those, and the necessary judicial action, in Appendix 2.

Under the 2022 UN Istanbul Protocol⁴, a complaint for human rights must not be burdensome, and may communicate the violation of the UNCAT in whatever form, without the rigors of formality. The onus is upon authority to discern when such a complaint is made, whereupon the unavoidable duty of diligence according to “supreme Law”⁵, *jus cogens*⁶ and the treaty proper becomes incumbent upon that authority. We note the following points from the Betts complaint:

1. Betts represents that the treatment that she received from the state court(s) in 2014 was systemic and cruel, inhuman or degrading.
 - a. In ECF-27 on page 2 para 2 of Section IV, she objects to an 11 year-old custody order allegedly issued without jurisdiction or due process. It is common knowledge that unjust or ‘unlawful’ custody orders will presumptively cause severe pain and suffering to the parent and to the child. It is also commonly known that when human beings are held in

⁴ The Istanbul Protocol, also known as the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is the first set of international guidelines for the assessment, investigation, and documentation of torture and ill-treatment.

⁵ Article VI of the US Constitution defines the “supreme Law of the Land”

⁶ The use of “jus cogens” herein means the pre-emptory norms under customary international law and the rules of civilized society. See *Identification of Customary International Law, United Nations*, [Agenda item 7], DOCUMENT A/CN.4/682, Third report on identification of customary international law, by Sir Michael Wood, Special Rapporteur [27 March 2015]. See also Obregón Tarazona, Liliana, ‘*The Civilized and the Uncivilized*’, in Bardo Fassbender, and Anne Peters (eds), *The Oxford Handbook of the History of International Law* (2012; online edn, Oxford Academic, 28 Dec. 2012), <https://doi.org/10.1093/law/9780199599752.003.0039>

⁷ Attached as Exhibit 1

unequal positions of power and perceive harm or oppression by an unequal force, they may not respond or participate but may withdraw from conflict (including litigation) for self-preservation or in protest convinced that the system will fail them. It is also commonly known that interactions with courts invariably induce stress, thus predisposing Betts and others to the injurious effects of distressful acts and outcomes which compound the accumulative effects of that stress.

- b. In ECF-2 on page 2 para 7 of Section IV, she alleges repeated arrests, interference with parental rights and seizure of her child by order of the state courts. It is common knowledge that arrest and incarceration of a mother for holding on to her child, and separation of child and mother by force, will presumptively cause severe pain and suffering to the parent and to the child. No protective measures or ameliorative treatment of Betts is indicated by her writing.
- c. In ECF-5⁸ page 1 Betts reports the “extrajudicial seizure of [her] child”, which appears to motivate two civil rights complaints (state and federal) each with a request for injunctive relief to stop the enforcement of the “seizure” related order. This demonstrates a strong emotional and psychological reaction to perceived injustice and distress, which in turn indicates potentially severe pain and suffering. The severe pain and suffering appears to continue as she demonstrably struggles for relief and remedy from what she appears to perceive to be injustice and harm in two court systems.
 - i. Note that ECF-10⁹ page 8 indicates that the state complaint for civil rights was not filed, and Betts did not proceed with the family court case 13cvd2848. Thus removal considerations should not be applied. Instead, on the same day as the state court inquired what she wishes to do as far as filing her complaint in the state court, she switched forum and filed the federal complaint instead.
 - ii. The manner in which Betts abruptly switched forum suggests that she thrust herself under what she perceived to be the protection of

⁸ Attached as Exhibit 2

⁹ Attached as Exhibit 3

the federal court, without knowledge of treaty law that protects her and those similarly situated.

- d. In ECF-2-1¹⁰, Betts elaborates on the constitutional violations that she alleges against the state court(s), each of which must be assessed for its impact to the human being and her rights once substantive grounds for the violations of non-derogable human rights are indicated
 - e. In page 1 of ECF-11¹¹, the arguments in section I use the term “the nature of the injury” which in the case of human rights is not necessarily “caused by the state court decision”, but by the attendant conduct of each public official and the reasonably perceived experience of the pro se litigant
2. Betts alleges that the systemic and cruel, inhuman or degrading treatment that she received was not incidental to lawful sanctions.
- a. In ECF-2 on page 2 para 4 and 5 of Section IV, she asserts that she submitted a state civil rights lawsuit which was not filed by the clerk, but instead, was filed by a court administrative officer as a ‘custody motion’ in a pre-existing family law¹² case, therefore, presumably motivating her to ultimately file a civil rights lawsuit in the federal court to achieve her intended purpose. She vehemently and repeatedly objected to this state action, resulting in a non-filing of the state civil rights complaint per ECF-10 page 8, in a rapid-fire and seemingly desperate effort to access Due Process for relief and remedy
 - b. Betts identifies Judge Melinda Crouch as biased when referring to prior dealing(s) with her, and requests that she not be ‘sent back to this judge’¹³ (ECF-2-3¹⁴ page 7,8,9,12) or to be subjected to the prior proceedings regarding which she seeks remedy and relief in the federal court (ECF-2-3 page 2,6,8-12)
 - c. With particular attention to the Amicus brief in ECF-2-1 pp 16-19, “Aidileys”:

¹⁰ Attached as Exhibit 4

¹¹ Attached as Exhibit 5

¹² See ECF-2-3 page 2 copy of email from Betts to the New Hanover Family Court requesting “approval of a filing titled “Notice of Void Judgment and Demand for Jury Trial” related to the original custody order issued under Case No. 13CVD2849” and further in the email body on the same page we read “This filing is intended as a new civil action for declaratory relief and jury trial pursuant to the U.S. Constitution and the North Carolina Constitution, and is not a motion within the original custody docket”

¹³ See discussion in the UN Istanbul Protocol on refoulement

¹⁴ Attached as Exhibit 6

- i. Identifies itself as a “non-profit, nonpartisan advocacy organization” (page 16 section I), confirmed by the IRS as being a valid existing non-profit corporation with EIN 82-1460176 (since 2017), and asserts that its brief is for the benefit of “every biological parent and child subjected to a family court system that has strayed from its constitutional mandate” which may be interpreted as offering evidence that the harm pled by Betts in her complaint is similar to the harm experienced by others.
- ii. Asserts that it has evidence of “families disproportionately harmed by systemic policies” (page 16 section I) and “families whose parental rights have been compromised or terminated without due process” and “pattern of abuse, lack of judicial oversight, and weaponization of service mandates disproportionately targeting biological mothers, disabled parents, and economically marginalized biological families” (page 16 section II) coupled with the ‘intent’ to “preserve documentary evidence relevant to ... constitutional claims” by apparently multiple persons (page 17 section III).
- iii. Asserts that a “protective measure” is required when addressing the infractions about which Aidileys preserves evidence, presumably gathered from multiple affected persons (page 17 section III).
- iv. Proceeds with listing categories of constitutional violations, presumably characterizing the body of evidence that Aidileys is preserving (page 17-18 section IV).
 1. With particular attention to the allegation of “Suppression of Rights Through Gag, Gatekeeper and No-Contact Orders (page 17-18 subsection B of section IV)
 2. With particular attention to the allegation of “Unscientific Compliance Mandates” (page 18 section IV)
- v. Attempts to communicate presumably a shared viewpoint about a “BROADER IMPACT ON MOTHERS, FATHERS, CHILDREN” referring to alleged economic deprivation, acquiescence to abuse, false information and overreach by courts (page 18 section V)

- vi. Betts demonstrates consistency with the systemic harm reported by Aidileys, when she makes her erroneous request for class certification in ECF-19¹⁵, by a motion which appears to seek the public benefit respecting a common pattern of judicial conduct

In the matter of Betts, it appears that she has made her writings according to the ‘advice of AI’ and appears to have no knowledge of UNCAT, and appears not to have had any opportunity to think about the relevant facts that support a UNCAT complaint. However, it could be argued that a complaint for systemic human rights violation appears *prima facie* from her facts and her filings, without her knowledge.

What did Betts communicate that constitutes a report of human rights violation under the Istanbul Protocol? Restated as a UNCAT complaint against the defendants, we may construe the Betts complaint as follows.

Under UNCAT Article 1, at first glance, it appears that Amy Betts reports severe mental pain and suffering intentionally inflicted upon her (arrest, seizure of child) and upon her child (separation of mother and child¹⁶) for the purpose of punishing her for an act that she has committed or is suspected to have committed that appears to be a violation of an 11-year-old court custody order, which she insists is invalid and unenforceable. It also appears that Amy Betts reports severe mental pain and suffering intentionally inflicted upon her by the coercion, under an allegedly invalid 11-year-old court custody order, to relinquish custody of her child, apparently permanently, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity. It may also seem that she pleads discrimination based on disability and assumes that her pleadings offer sufficient evidence of a cause of action therefor, which is unclear from her filings, and thus it is unclear if her human rights complaint has an element of discrimination as a basis for an intentional act that caused severe pain and suffering to her or to her child.

Thus the elements of a UNCAT Article 1 violation appear to be stated sufficiently to warrant an independent investigation.

¹⁵ Attached as Exhibit 7

¹⁶ It is common knowledge, and presumptive in the finding of severe pain and suffering, that the separation of mother and child who have an ordinary relationship, is cause for extreme emotional distress and consequential negative health, emotional and psychological consequences.

A second glance clarifies that Betts refers to the Fourth Circuit for the alleged obstruction of her statutory and constitutional rights complaint in 2025 because she cannot access relief or remedy or punishment for infractions through the state court. As a mother separated from her child, and her parent-child relationship having been disrupted by ‘multiple arrests’ and the child having been ‘seized recently’, the Betts pleadings suggest that she perceives a continuation of civil and constitutional rights violations in the conduct of the state court(s) and law enforcement authorities. She emphasizes that she does not contest the 11 year-old custody order, which she evidently does. Based on the AI-created writing, it appears that Betts has been informed by AI to avoid certain procedural and jurisdictional pitfalls. Her ‘desperation’ reflected in her rapid-fire and ‘urgent’ filings is consistent with the likely experience of severe pain and suffering and extreme fear, expressing an urgency to restore her custody and to personally oversee her child’s welfare. Her pain and suffering thus appears to be a continuing experience. Thus, a designation of “frivolous” under 28 U.S. Code § 1915(e)(2)(B) would be inappropriate under human rights analysis.

Thus the elements of a UNCAT Article 1 violation appear to be stated sufficiently to warrant an independent investigation.

Analyzing under UNCAT Article 16, the question is whether cruelty and inhumanity towards Amy Betts and degradation of her person occurred by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity¹⁷. The analysis must be applied first to the state court to bound jurisdiction, and second to the federal court itself following district dismissal.

The custom at law is finality of suits upon completion of customary Due Process. Betts paints a picture through her filings in this Circuit. The picture is of a mother who

¹⁷ From CAT General Comment No. 2: “17. The Committee observes that States parties are obligated to adopt effective measures to prevent public authorities and other persons acting in an official capacity from directly committing, instigating, inciting, encouraging, acquiescing in or otherwise participating or being complicit in acts of torture as defined in the Convention. Thus, States parties should adopt effective measures to prevent such authorities or others acting in an official capacity or under colour of law, from consenting to or acquiescing in any acts of torture. The Committee has concluded that States parties are in violation of the Convention when they fail to fulfil these obligations.” And “18. The Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State’s indifference or inaction provides a form of encouragement and/or de facto permission.”

objects to her treatment by a state court system that conducted itself unlawfully and unethically and oppressed her with limitations of her inalienable rights and subjected her to severe pain and suffering through order(s) and continuing government actions enacted by public officials or persons acting under color of the court's authority. She displays in her writings that 'there was no point' in disputing her treatment in the Family law court and through the Family case and before state judge Melinda Crouch since she believe that the court's conduct was *void ab initio* by virtue of its cruelty, inhumanity and degradation in the absence of Due Process. She in effect asserts *forum nullus*: the state courts cannot have jurisdiction as a result of systemic constitutional violations depriving her (and her child) of inalienable and human rights.

Thus the elements of a UNCAT Article 16 violation appear to be stated sufficiently to warrant an independent investigation.

With reliance on the latest AI that remains suboptimal in legal matters without technical insights, which Betts clearly lacks, it may be surmised that Betts has chosen not come to this Circuit to contest the custody order but instead the process and systemic judicial policy leading to the order, as well as the subsequent enforcement of the order as a lawful sanction. Recall that a lawful sanction is a judge's only potentially legitimate defense to the allegation of a UNCAT Article 1 or 16 violation.

The central claim of Betts from a human rights perspective appears to be the perpetuation of Article 1 and 16 violations resulting in past deprivation and now further deprivation of her human rights and constitutional rights. Under the lens of human rights the perspective of Betts appears to be that prohibited state actions occurred violating human rights treaties including UNCAT Article 13 (right to complaint and protection), Article 14 (redress and compensation) and Article 12 (prompt and impartial investigation). Other treaties are also necessarily involved in such a human rights analysis, with onus on the judiciary to *sua sponte* invoke and consider in Betts' case, but I limit the discussion herein to UNCAT.

The key question then becomes if Betts has shown substantive grounds to warrant investigation of torture and CIDT. This commands prompt jurisdiction, protection and stay pending an independent investigation consistent with the Istanbul Protocol. None occurred.

APPENDIX 2

APPENDIX 2: The impermissibility of the UNCAT RUDs

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INTRODUCTION

The United States has evaded its obligations under the UNCAT, even though both the Executive and the Legislative branches represent to treaty partners and to the highest authority on Torture¹, our nation's full compliance with the treaty despite our RUDs. The official text of the RUDs provided to the United Nations listed as the United States' 1994 instrument of accession, succession ratification to the treaty² evidences 2 reservations, 5 understandings, and 1 declaration.

The authority on the legal effect of the RUDs and their applicability in domestic jurisprudence is found in the 2014 Concluding Remarks of the UN Committee Against Torture³ (CAT). The United States formally recognized the CAT as the authority on UNCAT⁴. The CAT's findings would likely be adopted by the International Court of Justice⁵.

¹ UN Committee Against Torture¹ (CAT)

² See <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/iv-9.en.pdf> pp 7-8

³ CAT Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States, ¶ 14, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014) -- <https://www.ohchr.org/en/documents/concluding-observations/catcusaco3-5-concluding-observations-combined-third-fifth>

⁴ "In its instrument of ratification (deposited with the Secretary General of the United Nations on October 21, 1994), the United States made a declaration pursuant to Article 21, paragraph 1, recognizing the competence of the Committee Against Torture, on a reciprocal basis, to receive and consider a State Party's claims that another State Party is not fulfilling its obligations under the Convention. " from the Initial Report of the United States to the CAT https://1997-2001.state.gov/www/global/human_rights/torture_intro.html

⁵ It is not inconceivable that the People of the United States may produce evidence to the CAT of systemic UNCAT violations causing the CAT to initiate an Article 20 investigation. And no judge should under-

According to the CAT, the UNCAT is self-executing in the United States since equivalent domestic laws and remedies are absent, and the RUDs issued by Congress are non-essential and void in their majority⁶ under the *jus cogens* of customary international law⁷. But the CAT's conclusion is not what you will read should you search the very sparse and deficient domestic precedents available on the subject. Domestic legal and academic treatise incorrectly evaluate the UNCAT RUDs and the domestic force of the UNCAT.

Also it is important to note the departure of the few modern UNCAT precedents from federal common law, which more correctly represented the essence of Article VI and its designation of authority: treaties must be judicially noticed and observed and effectuated by the judicial process in a manner as not to undermine their object and purpose.

Importantly, human rights treaties may not be displaced or ineffectuated by later-in-time federal statutes. Also importantly, constitutional history, history of the United Nations and world human rights, and VCLT's commemoration of *jus cogens* remind us of the preeminence of human rights treaties, and the strict requirement of good faith compliance of each State with their object and purpose, both when signed and not-yet-ratified, and when ratified.

The United States ratified the UNCAT in 1994⁸, and is obligated to submit periodic reports of its treaty compliance to the CAT every four years. It has dragged its feet,

estimate the possibility of other States filing a complaint with the CAT against US violations, in this case, violations by its judiciary.

⁶ A possible exception is the death penalty

⁷ The Vienna Convention on the Law of Treaties commemorates part of the *jus cogens* of customary international law. In addition to Articles 19 discussed supra, Articles of note include: Article 26 (*Pacta sunt servanda*: Requires good-faith performance of treaty obligations); Article 27 (Internal law not an excuse: Domestic law cannot justify failure to comply with treaty); Article 31 (Interpretation: Treaties must be interpreted in light of their object and purpose); Article 60 (Termination due to breach: Material breach by one party may justify termination by others). Since the U.S. ratified UNCAT in 1994, it is bound by Article 26 (to perform its obligations in good faith), Article 27 (to not invoke domestic law, e.g., non-self-executing reservations, to evade enforcement) and Article 54 (to remain bound unless it lawfully withdraws—which it has not and **cannot**). Thus, any **judicial or executive act that defeats UNCAT's object and purpose**—such as refusing to investigate torture, denying redress, or sabotaging access to complaint mechanisms—constitutes a **post-ratification breach** under VCLT. Note that as an absolute prohibition under the *jus cogens* of customary international law, the United States cannot withdraw from the UNCAT, and inevitably must conform to its object and purpose.

⁸ Convention adopted by the United Nations General Assembly at New York on December 10, 1984; signed by the United States on April 18, 1988; transmitted by the President of the United States of America to the Senate May 23, 1988 (Treaty Doc. 100-20, 100th Congress, 2d Session); reported favorably by the Senate Committee on Foreign Relations July 19, 1990 (Senate Executive Report No. 101-30, 101st Congress, 2d

perhaps because it cannot be compliant under its current domestic policies, and it cannot withdraw from the treaty. This behavior radically contrasts the assurances of the United States about its historical leadership in eradicating torture by treaty.

The CAT issues a list of corrective actions, concerns, and recommendations to each State party to the Convention following its periodic report or upon conducting an inquiry. Should a priority recommendation issue by the CAT, the State must respond within one year.

In its initial report to the CAT⁹ following ratification, the United States insisted on its fervent historical endorsement of, and full compliance with, the UNCAT:

“Torture is prohibited by law throughout the United States. It is categorically denounced as a matter of policy and as a tool of state authority. Every act constituting torture under the Convention constitutes a criminal offense under the law of the United States. No official of the government, federal, state or local, civilian or military, is authorized to commit or to instruct anyone else to commit torture. Nor may any official condone or tolerate torture in any form. No exceptional circumstances may be invoked as a justification of torture. U.S. law contains no provision permitting otherwise prohibited acts of torture or other cruel, inhuman or degrading treatment or punishment to be employed on grounds of exigent circumstances (for example, during a “state of public emergency”) or on orders from a superior officer or public authority, and the protective mechanisms of an independent judiciary are not subject to suspension. The United States is committed to the full and effective implementation of its obligations under the Convention throughout its territory.”

This constitutes the Executive branch’s recitation to the world of the position of the three branches of the US federal government on the UNCAT following its deposit of the instrument of ratification with the United Nations¹⁰. The official statement is therefore not a political position but the position of the federal government, and thus requires judicial notice, interpretation and taking of jurisdiction in Betts.

Session); Advice and consent to ratification by the Senate October 27, 1990; Ratified by the President September 19, 1994; Ratification of the United States of America deposited October 21, 1994; entered into force for the United States November 20, 1994. See <https://www.state.gov/94-1120-1/>

⁹ https://1997-2001.state.gov/www/global/human_rights/torture_intro.html

¹⁰ See <https://treaties.un.org/doc/Publication/MTDGS/Volume%20I/Chapter%20IV/iv-9.en.pdf> pp 7-8

The Initial Report further states:

“Every unit of government at every level within the United States is committed, by law as well as by policy, to the protection of the individual's life, liberty and physical integrity. Each must also ensure the prompt and thorough investigation of incidents when allegations of mistreatment and abuse are made, and the punishment of those who are found to have committed violations. Accomplishment of necessary reforms and improvements is a continued goal of government at all levels. The United States intends to use its commitments and obligations under the Convention to motivate and facilitate a continual review of the relevant policies, practices, and institutions in order to assure compliance with the treaty.”

The United States has repeated these commitments and representations to the CAT in its periodic reports. Based on this representation alone, every member of the judicial branch is bound to recognition and application of this treaty when invoked. And under the principle of judicial independence, the judiciary must attend to any deficiency, or deviation of this nation from the treaty proper and its object and purpose, by judicial action. The unfailing requirement of independent investigation of UNCAT violations is placed upon the judiciary when litigants allege their human rights are violated consistently with Articles 1 and 16 with substantive grounds.

Yet, the Betts case disposition evidences no consideration of her human rights complaint.

There is a common misconception that UNCAT only applies under physical custody and incarceration. This is not helped by the references within the RUDs to this stereotypical interpretation. A careful textual analysis of the UNCAT reveals, and clarification by CAT confirms, that this is only one scenario of possible infractions: physical custody and incarceration are not required for Article 1 or 16 violations, and the UNCAT is designed for broader applicability. By virtue of the UNCAT's object and purpose, such limitation cannot hold.

We now examine the RUDs individually and understand their impermissibility.

RESERVATION 1

The **first reservation** in the RUD states:

*“[t]hat the United States considers itself bound by the obligation under Article 16 of the UNCAT to prevent “cruel, inhuman or degrading treatment or punishment,” only insofar as the term “cruel, inhuman or degrading treatment or punishment” means the cruel, unusual and **inhumane** treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.”*

Reservation 1 presents irreconcilable divergence from both the US Constitution and the UNCAT.

To begin, note that Congress modified an absolute prohibition under *jus cogens*, and reported to the CAT that it fully complies with the object and purpose of the UNCAT. In the Senate Executive Report 101-30¹¹, we find:

*“The administration takes the position that the reference in article 16 to “cruel” and “inhuman” treatment or punishment **appears to be roughly equivalent** to the treatment or punishment barred in the United States by the 5th, 8th, and/or 14th amendments to the Constitution. However, “degrading” treatment or punishment has been interpreted, for example by the European Commission on Human Rights, to include treatment that would probably not be prohibited by the U.S. Constitution and may not be illegal in the United States. In view of the ambiguity of the terms, the administration believes that U.S. obligations under this article should be limited to conduct prohibited by the U.S. Constitution.”*

However, when the US ratified the treaty, its RUDs specified “inhuman treatment or punishment”. None of the cited constitutional Amendments specify “inhumane treatment”, and no statute¹² modifies or ‘clarifies’ either the Fifth, or the Eighth, or the Fourteenth Amendments to directly incorporate “inhumane treatment” as a parameter for judicial interpretation and application.

¹¹ It is Senate Executive Report 100-20 that seems to comport with the US instrument of ratification deposited with the UN

¹² 18 U.S.C. § 2340A prohibits the torture of individuals outside the United States, radically limiting the reach of the UNCAT and Article 16. 42 U.S. Code § 2000dd prohibits “Cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government, adding a term (under custody) to Article 16 of the UNCAT that is not permitted (note use of Article 16 of the UNCAT in Article 15 of the CRPD and Article 7 of the ICCPR). The Civil Rights of Institutionalized Persons Act (CRIPA) allows the DOJ to investigate and sue facilities (jails, psychiatric hospitals, etc.) for systemic abuse or neglect, and may be considered to be a tool for challenging inhumane conditions, though it doesn’t create private rights of action, and does not implement the UNCAT proper.

Those precedents that arguably discuss “inhumane treatment”¹³ to a degree, do not result in ‘equivalence’ to UNCAT mandated protection, relief, remedy or punishment.

Such excess by Congress to deliver ‘equivalence’ through mention of “inhumane treatment or punishment” in a RUD would technically require ratification of each Amendment as a constitutional amendment. An amendment to an Amendment may not be specified by mere mention in a RUD intended to modify the U.S. compliance with an absolute of *jus cogens*, and to deform a ratified treaty with specific terms, object and purpose. If Congress only meant to add this clause for the sake of judicial interpretation, this fails equivalence.

The mention of “inhumane” does not rise to the standing of a statute. If it is to be construed as identification of an un-enumerated right, then technically, Congress may not dictate recognition at law to our judiciary without enacting statutes. In other legislative and executive writings related to UNCAT¹⁴ you will find assurance by the United States that the judicial process will ensure full compliance of the State with the treaty, and that the ‘equivalence’ of domestic (constitutional and statutory pathways) requires little or no domestic legislation to fully implement the UNCAT proper as domestic law. The CAT disagrees¹⁵. My analysis through other routes confirms that the US is non-compliant with the UNCAT because of its domestic judicial process.

In the backdrop of these findings, let us review the Betts case to see this non-equivalence, which the CAT has confirmed through its Concluding Observations on the U.S., U.N. Doc. CAT/C/USA/CO/3-5 (20 Dec. 2014) as a defect in US compliance.

The CAT’s 2014 Concluding Observations confirm my statistical measurement of 10 courts and dealings with over 40 state and federal judges that demonstrates consistency over a period of more than seven years that no equivalence exists between relief, remedy or punishment of judicial acts¹⁶ under UNCAT compared to relief,

¹³ e.g. *Washington v. Harper*, 494 U.S. 210 (1990), *Youngberg v. Romeo*, 457 U.S. 307 (1982), *County of Sacramento v. Lewis*, 523 U.S. 833 (1998), *Estelle v. Gamble*, 429 U.S. 97 (1976), *Timbs v. Indiana*, 586 U.S. ____ (2019)

¹⁴ E.g. CAT/C/USA/3-5: combined third to fifth periodic reports of the United States of America (CAT/C/USA/3-5) at the 1264th and 1267th meetings of the Committee Against Torture (CAT/C/SR.1264 and 1267), held on 12 and 13 November 2014

¹⁵ See CAT/C/USA/CO/3-5: Concluding observations on the combined third to fifth periodic reports of the United States of America

¹⁶ When the violation is alleged against a court or judge and persons acting under color of judicial authority, no remedy, relief or punishment is in practice, possible.

remedy and punishment of judicial acts under the Fifth, Eighth, and/or Fourteenth Amendments (even when combined with the alleged prohibition of inhumane treatment or punishment).

Betts came to the correct (federal) forum to invoke a human rights treaty (UNCAT) without realizing. Every US informational resource, and even AI, did not inform her that she could make a human rights complaint, or to expressly state one with points and authorities. But according to the UN Istanbul Protocol, it appears that she made a UNCAT complaint.

Apparently arrested and separated from her child, Betts disputes the conduct as being the enforcement of a lawful sanction. She is presumed to be experiencing severe pain and suffering (since in the normal case, separation of mother and child is inherently and persistently traumatic and must be presumed to remain so), confirmed by her conduct. Under the domestic pathway to relief, remedy and punishment, the burden is upon Betts to bring her case, plead it successfully, then successfully prosecute it prior to any protection from further severe pain and suffering, without right to an independent investigation, and prior to any relief or remedy. This judicial process is categorically inconsistent with the ‘handling’ required under the UNCAT.

Injunctive relief for Betts, under customary jurisprudence, does not exist. Since the violation is alleged against the judiciary, no civil liability exists. No prosecutor will consider Betts’ criminal complaint due to interpreting non-self-execution as an express modification of the UNCAT, minimal domain knowledge of the applicability of human rights treaties in criminal prosecutions, and because of the expected inevitability of judicial interpretation of the RUDs that conventionally has upheld them.

Betts’ federal claim for a UNCAT violation is ‘choked’ from the outset by the unavailability of a domestic pathway for relief, remedy or punishment. The legal justification under which the Betts case was federally dismissed is a cause for concern under the UNCAT.

If Betts overcomes the substantial preliminary obstacles, she faces the further obstacle of overcoming her being labeled for prejudice: She is a pro se litigant who is likely to receive Posner treatment¹⁷. She is a mother with an arrest record who is attesting to

¹⁷ The ‘dirty secret’ of federal courts, revealed by Seventh Circuit judge Richard Posner: “[m]ost judges regard pro se litigants as ‘kind of trash not worth the time’” – ABA Journal 9/11/2017

torture and CIDT¹⁸ in the state court, and disputing *res judicata* as an untrustworthy litigant. She has a reduced likelihood of navigating the legal and criminal systems successfully.

Under the Istanbul Protocol, at the federal District level, a mother with an arrest record is attesting to torture and CIDT by the state court. On appeal, she is complaining of torture and CIDT by a federal District court that acquiesced to the state's torture and CIDT. Betts is asking for her past record and her *pro se* status not to prejudice her, and to be given a fair test of merits, but no such opportunity exists for her under prevailing judicial policy.

On the stage of UNCAT and the Istanbul Protocol¹⁹, Betts' complaint would be promptly and unfailingly evaluated by an independent investigative body, independent of every court, because of the apparent demonstration of substantive grounds indicating possible torture and CIDT. An ethical judiciary who are guardians of human rights would hold jurisdiction, and reach without hesitation outside their courts and ensure her judicial protection from further harm, and also for her child. Judicial independence is possible while courts cooperate on collective human rights protections without the necessity of victim-led procedures.

Betts' amicus pleading makes very serious allegations purporting systemic judicial violations that could be construed as being against the defendant state court(s), and against the district court on appeal. An indigent disabled *pro se* litigant in an apparent

¹⁸ CIDT: "Cruel, Inhuman or Degrading Treatment or Punishment" is prohibited in Article 16 of the UNCAT. General Comment No.2 by the Committee Against Torture (<https://docs.un.org/en/CAT/C/GC/2>) clarifies the indivisibility, interdependence and interrelationship of torture and CIDT as follows: "3. *The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. Article 16, identifying the means of prevention of ill-treatment, emphasizes "in particular" the measures outlined in articles 10 to 13, but does not limit effective prevention to these articles, as the Committee has explained, for example, with respect to compensation in article 14. In practice, the definitional threshold between ill-treatment and torture is often not clear. Experience demonstrates that the conditions that give rise to ill-treatment frequently facilitate torture and therefore the measures required to prevent torture must be applied to prevent ill-treatment. Accordingly, the Committee has considered the prohibition of ill-treatment to be likewise nonderogable under the Convention and its prevention to be an effective and non-derogable measure.*"

¹⁹ Although the United States is not obligated to implement the UN Istanbul Protocol, the object and purpose of the UNCAT must be fully borne out in the process of its interpretation, application and enforcement. Since the Protocol has considered numerous 'angles' regarding which our domestic judiciary are uninitiated, it is sage and safe to follow the Protocol in unfolding the UNCAT-compatible process for its domestic judicial enforcement.

state of crisis, requires an opportunity to provide evidence of what she has sufficiently alleged as a UNCAT complaint, including perhaps a verified amicus.

Appellate consideration would require de novo review following involvement of the independent investigation. The magnitude of prohibition at law, and the degree of systemic non-compliance of the judicial process with the UNCAT, require extreme caution and magnified judicial diligence.

Since the *pro se* 'soft handling' requirement from the court could, *arguendo*, result in the reading of a fact pattern indicating the presence of substantive grounds of UNCAT violations offered by Betts' filings, it is plausible that a finding of the necessity of an independent investigation may be made. A lawful sanction may not be presumed under UNCAT based on this fact pattern, since Betts makes systemic claims against the judiciary and the UNCAT requires investigation of the lawfulness of the sanction. The federal court to which she referred her case, would be required to invoke the independent investigation. This did not happen.

Upon indication of a possible UNCAT violation, she and her child, would be protected pending completion of the independent investigation proper. It is the bodily, mental and emotional integrity of the prone litigant and third party, and prevention of their refoulement and re-traumatization that MUST be protected pending the investigation. But there is absolutely no procedure for inter-court cooperation in place for such an eventuality.

It is based upon the outcome of the investigation proper that the federal court would then proceed with the processing of the Betts federal complaint. Should a finding of torture or CIDT occur, the federal court and the executive must ensure punishment of each offender. Betts does not have to prosecute and plead in the same manner as she would under the domestic pathways. Without burden, she must be protected by government, as must her child, without requiring to provide for her own protection and protection of her child by personal action and struggle. There can be no presumption that the actors about whom she complained are trustworthy or fit to enact the protections and the 'stay' pending the investigation, and therefore the essential requirement of independent investigation, rule-based stays and protective orders.

It might seem reasonable that Betts should at least specifically plead a UNCAT violation for this process to be initiated. However, this requirement cannot hold for

multiple reasons, including (a) the exclusion of UNCAT from discussions and common knowledge of domestic laws, (b) the necessary ‘soft handling’ of the pro se litigant, (c) the superior knowledge and resources of the court and the inferior knowledge and resources presumed to be available to an indigent, disabled pro se litigant, (d) the judicial enforcement of an absolute prohibition to which the US is bound, and € the absolute non-derogability of Betts’ rights under *jus cogens* and UNCAT.

Thus **there is no domestic equivalence** between the domestic pathway and the required pathway under the treaty. Therefore the first reservation must be viewed as impermissible.

UNDERSTANDING 1

The **first Understanding** in the UNCAT RUD radically and impermissibly alters Article 1. It modifies ‘intent’ to ‘specific intent’ and limits torture to only certain acts and outcomes with the requirement of “*custody or physical control*”²⁰. None of these modifications are permissible.

Understanding 1 limits torture and CIDT to “... *only to acts directed against persons in the offender's custody or physical control.*” UNCAT Article 1 does not require custody—it requires intentional infliction by or with consent of a public official. This limitation excludes acts such as extraordinary rendition, proxy torture, and outsourced abuse, which are clearly within UNCAT’s scope. Also, torture committed via indirect control or complicity is still torture. Understanding 1 clause (b) attempts to immunize U.S. officials from liability for torture committed outside direct custody—an evasion of *jus cogens* obligations.

Understanding 1 also impermissibly modifies UNCAT to permit all “*judicially-imposed sanctions and other enforcement actions authorized by United States law or by judicial interpretation of such law provided that such sanctions or actions are not clearly prohibited under international law*”. This means that any punishment authorized by U.S. law or courts is presumed lawful under UNCAT unless it is clearly prohibited by international law. This violates UNCAT’s core obligations for reasons including:

²⁰ Note that a construction argument may be made to recognize every litigant under the jurisdictional custody of a court

1. UNCAT's Definition of Torture (Article 1): UNCAT excludes pain or suffering "*arising only from, inherent in or incidental to lawful sanctions.*" But this exclusion is not a blanket immunity—it only applies if the sanction is lawful under international law, not merely domestic law. The U.S. Understanding flips this: it assumes domestic legality equals treaty compliance unless international law clearly says otherwise.
2. UNCAT's Absolute Nature (Article 2.2): "*No exceptional circumstances whatsoever... may be invoked as a justification of torture.*" This includes judicial discretion, national law, or security concerns. The treaty is designed to prevent States from using internal legal systems to justify acts that violate international norms. The U.S. Understanding creates a loophole: **if a judge authorizes a sanction, it's presumed compliant—even if it causes severe suffering.**
3. Violation of Non-Derogability: UNCAT is non-derogable—States cannot water down its obligations through reservations or understandings that defeat its object and purpose. The U.S. Understanding violates Article 19(c) of the Vienna Convention on the Law of Treaties, which prohibits reservations that are "*incompatible with the object and purpose*" of a treaty.

UNCAT explicitly excludes pain or suffering arising from lawful sanctions only if they are not cruel, inhuman, or degrading. This Understanding creates a domestic override clause: it allows U.S. courts to impose sanctions that may be degrading or inhuman or cruel, so long as they're not clearly outlawed by international law. That's a dangerously high threshold—especially when international law evolves through interpretation, not rigid codification. This Understanding is a structural defect in U.S. treaty compliance. It opens the door to inhumane treatment cloaked in judicial legitimacy, which is exactly what UNCAT was designed to prevent.

Understanding 1 also impermissibly modifies UNCAT by modifying the term "acquiescence" to require "*that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his legal responsibility to intervene to prevent such activity*". This is a textbook example of treaty dilution. UNCAT defines torture as acts committed "...by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

The term “*acquiescence*” is intentionally broad. It captures passive tolerance, willful blindness, or failure to act when a public official knows or should know torture or CIDT is occurring.

But Congress imposes a two-pronged test that narrows the scope of liability: 1) The official must have actual knowledge before the act (i.e. specific prior awareness, which excludes negligence, institutional tolerance, or failure to investigate); 2) The official must fail to act, breaching a legal duty. Thus Understanding 1’s redefinition of “*acquiescence*” further violates UNCAT:

1. Raises the Burden of Proof: UNCAT’s intent is to prevent impunity. Requiring prior awareness and legal breach makes it harder to hold officials accountable. It shifts the standard from objective knowledge to subjective certainty, which is not required under international law. UNCAT allows for liability even if the official should have known and failed to act.
2. Undermines Preventive Obligations (Article 2): UNCAT obligates states to take effective legislative, administrative, judicial or other measures to prevent torture. The Understanding 1 weakens this by allowing officials to claim ignorance or procedural loopholes. For example, a prison warden who ignores repeated signs of abuse could escape liability under the U.S. definition, but not under UNCAT.
3. Violates Vienna Convention Principles: Under the Vienna Convention on the Law of Treaties (Article 19), a reservation or understanding is invalid if it is “incompatible with the object and purpose of the treaty.” UNCAT’s object is to eradicate torture, including through state complicity. Narrowing acquiescence guts this principle.

This redefinition of “*acquiescence*” is a legal firewall—designed to shield U.S. officials from accountability by redefining complicity. It’s not just a semantic tweak; it’s a structural evasion of international responsibility. It also cannot stand according to General Comment No. 2 by the Committee Against Torture, U.N. Doc. CAT/C/GC/2 (24 Jan. 2008). All domestic judicial decision must comport with these dominant analyses.

Understanding 1 also impermissibly modifies UNCAT by asserting that its “*noncompliance with applicable legal procedural standards does no per se constitute torture*”. This violates the Convention in both spirit and substance because it interprets

Article 1 to mean that procedural violations (e.g., denial of due process, failure to follow legal safeguards) do not automatically amount to torture. This further violates UNCAT:

1. UNCAT's Definition of Torture Is Broad and Protective: Article 1 defines torture as: "...*any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted... for purposes such as obtaining information, punishment, intimidation, or coercion...*" It does not require physical violence. The U.S. narrows this to prolonged mental harm and limits it to four specific causes, excluding many recognized forms of psychological torture, including psychologically harmful cruelty, inhumanity and degradation. This contradicts the Committee Against Torture's General Comment No. 2, which affirms that psychological torture is not limited to prolonged harm. Mental suffering caused by procedural abuse—such as indefinite detention, denial of medical care, or coercive legal tactics—can qualify as torture or cruel, inhuman, or degrading treatment. The U.S. Understanding narrows this scope, excluding procedural abuse unless it meets a higher threshold.
2. Violates UNCAT's Preventive Mandate (Article 2): UNCAT requires States to take effective measures to prevent torture, including ensuring access to legal safeguards, and preventing abuse of discretionary power. By declaring that procedural violations are not torture per se, the U.S. undermines the **preventive architecture of the treaty**. It signals that systemic failures—like denial of counsel, **arbitrary rulings, deprivation of due process**, or refusal of accommodation—are legally tolerable.
3. Contradicts General Comment No. 2 by the CAT: The UN Committee explicitly states: "States parties must ensure that acts of torture are **not committed under any circumstances, including legal or procedural irregularities**". It also affirms that de facto practices—not just formal law—can constitute torture. This includes: a) Coercive use of judicial discretion; b) **Denial of access to remedies**; c) **Failure to intervene in known abuses**. The U.S. Understanding impermissibly attempts to shield such practices by asserting that they don't automatically qualify as torture.

4. Violates Vienna Convention on the Law of Treaties (Article 19): Reservations or understandings are invalid if they are: “incompatible with the object and purpose of the treaty.”

UNCAT’s object is to eradicate torture in all forms, including those masked by legal formalism. UNCAT requires States to prevent any act of torture, including those arising from procedural failures. While not every procedural breach is torture, this clause risks categorically excluding procedural abuses that result in severe suffering. The U.S. Understanding creates a procedural loophole that allows suffering to persist under the guise of technical compliance, and shield torture resulting from systemic procedural abuse, as Betts claims.

Understanding 1 is a strategic narrowing of UNCAT’s Article 1 that (a) violates the object and purpose of the Convention (prohibited under Article 19(c) of the Vienna Convention on the Law of Treaties); (b) undermines the *jus cogens* norm prohibiting torture, which is absolute and non-derogable; (c) creates legal ambiguity that enables impunity for acts that clearly meet international definitions of torture.

In summary, Understanding 1 is a structural evasion—it allows U.S. institutions to deny accommodation, inflict psychological harm, or manipulate legal process without triggering UNCAT scrutiny. It’s not just a semantic tweak; it’s a doctrinal firewall against accountability.

UNDERSTANDING 2

Understanding 2 of the RUD impermissibly modifies Article 3 of the UNCAT: “*the United States understands the phrase, “where there are substantial grounds for believing that he would be in danger of being subjected to torture,” as used in Article 3 of the Convention, to mean “if it is more likely than not that he would be tortured.”*”

This violates both the textual meaning and protective intent of the Convention, because Article 3 is a preventive standard, not a predictive one. It requires reasonable concern, not statistical certainty. Understanding 2 raises the evidentiary threshold beyond what UNCAT requires: “Substantial grounds” is interpreted by the Committee Against Torture (CAT) as a real risk, not a >50% probability. The U.S. standard of

“more likely than not” imposes a probabilistic burden that excludes credible but uncertain threats. Further considerations include:

1. Understanding 2 expressly violates General Comment No. 1 (CAT/C/GC/1). The Committee clarified: “The phrase ‘substantial grounds for believing’... does not require that the risk of torture be more probable than not.” Instead, it requires: (a) Objective indicators; (b) Consistent patterns of abuse; (c) Credible personal risk. The U.S. Understanding contradicts this by demanding a higher burden of proof, effectively nullifying the precautionary principle embedded in Article 3. Whether or not Betts can prove her human rights complaint, we must ask whether elements (a) to (c) occurred, at any time, as may be interpreted by Betts’ form-deficient federal complaint. No indication of this consideration is found in the record of either the District Court or Appeal Court.
2. Understanding 2 contravenes the preventive purpose of UNCAT. UNCAT is designed to prevent torture before it occurs, not adjudicate it after the fact. The U.S. threshold: (a) Delays intervention; (b) Exposes individuals to risk; (c) Undermines the treaty’s protective function. Conventionally examples are oriented to especially dangerous situations such as asylum, extradition, and deportation contexts, where delays or denials can result in irreversible harm. However, we must consider Betts’ strongly-indicated likelihood of persistently experiencing severe pain and suffering, motivating her in what appears to be desperation and alarmed urgency to vigorously seek the protection of the federal court and relief and remedy for the separation from her child.
3. Understanding 2 Violates Vienna Convention Article 19(c): “A reservation is invalid if it is incompatible with the object and purpose of the treaty.” By redefining “substantial grounds” to mean “more likely than not,” the U.S. Understanding: (a) Restricts the scope of protection; (b) Undermines the treaty’s core obligation; (c) Creates a loophole for refoulement. It is very important to carefully consider the personal judicial liability created by this Congressional *faux-pas*:
 - a. Assuming that Betts can make a case for CIDT and torture: her only course of action now, other than SCOTUS certiorari, may ordinarily be to return to the state court and attempt to re-file her complaint, which she may characterize as refoulement by the Fourth Circuit with devastating

- implications for survivors of judicial abuse—especially those facing retraumatization. At this time, the Fourth Circuit has not measured the severity of Betts’ presumptive pain and suffering through an independent investigation, and indications of retraumatization are harvestable from her public record, and combined with presumptive trauma, the burden of proof of the absence of retraumatization is placed upon the court.
- b. Betts has clearly indicated coercive judicial conduct, and that she has been stripped of procedural and substantive rights. Under UNCAT, Betts should be protected from being returned to the same environment if there are credible indications of future harm. But under the U.S. interpretation, Betts must prove that it is more probable than not that she will be tortured again. This means that (a) her past trauma is not enough; (b) her documented judicial abuse is not enough; (c) her medical vulnerability is not enough. Unless she can meet a statistical burden of proof, she may be forcibly returned to the same courtroom, the same judges, the same procedural machinery that previously violated her rights. This is indicated as likely since the state court allegedly re-characterized her civil complaint as a continuation of her Family Court case, and assigned it to the same judge. Betts could therefore make the argument that Understanding 2 isn’t just a semantic tweak—it’s a doctrinal sabotage. She could make the argument that the U.S. Understanding weaponizes evidentiary thresholds to deny protection to vulnerable individuals by rewriting a precautionary safeguard into a probability test, which is incompatible with both the text and jurisprudence of UNCAT. If necessary judicial action is absent, Betts can claim that the court has a policy of forcing survivors to relive and reprove their trauma in order to be believed. It is common knowledge that re-exposure to the same abusive legal actors can trigger flashbacks, medical deterioration, loss of trust in legal systems, and suicidality or withdrawal from legal remedy. This is not hypothetical, but it is documented in trauma literature and recognized by the UN Committee Against Torture as a form of mental suffering that meets the threshold of torture or cruel, inhuman, or degrading treatment.

UNDERSTANDING 5

The **fifth understanding** in the UNCAT RUD states:

“That the United States understands that this Convention shall be implemented by the United States Government to the extent that it exercises legislative and judicial jurisdiction over the matters covered by the Convention and otherwise by the state and local governments. Accordingly, in implementing articles 10-14 and 16, the United States Government shall take measures appropriate to the Federal system to the end that the competent authorities of the constituent units of the United States of America may take appropriate measures for the fulfilment of the Convention.”

State and federal judges may incorrectly construe Reservation 1 of the United States as the federal government’s delegation of UNCAT enforcement to the states (“constituent units”—i.e., states and localities), at their discretion, and affirming that if a state violates the UNCAT, the federal government may claim it lacks jurisdiction to intervene. However, Article VI of the US Constitution commands that the state judiciary shall interpret and enforce the treaty without fail as a federal mandate. The implication is that Congress does not recognize the preeminence of treaties under the supreme Law of the Land, and requires correction by the judicial branch.

This means, for example, if a state fails to train police (Article 10), investigate torture (Article 12), or provide redress (Article 14), the federal government can claim it's outside its jurisdiction. This undermines uniform compliance: UNCAT is a treaty obligation of the State Party—not its subnational units. By invoking federalism, the U.S. creates a fragmented compliance landscape where some states may act, others may not, and the federal government avoids direct liability and responsibility.

In reference to Article 16, the U.S. narrowed the prohibition of cruel, inhuman, or degrading treatment so that it cannot rise to the level of torture by tying it to constitutional standards (Fifth, Eighth, Fourteenth Amendments) and then further diluted it by saying enforcement depends on jurisdictional reach.

Some real-world consequences, which are prohibited, include:

1. Police brutality, solitary confinement, and abusive prison conditions often fall under state/local control—yet these are precisely the areas UNCAT targets.

2. Victims of torture or CIDT in state custody (e.g., jails, juvenile detention, psychiatric facilities) have no federal remedy under UNCAT.
3. Court litigants like Betts who may have been subject to CIDT in state courts receive no exercise of jurisdiction in the federal courts.

The Committee Against Torture has repeatedly criticized this loophole in its concluding observations, noting that the U.S. fails to ensure uniform implementation across all jurisdictions.

In the event that Congress does not legislate UNCAT into equivalent domestic law (which is what has happened), the UNCAT must be enforced as self-executing domestic federal law, both by the state and the federal judiciaries.

In either case, the resulting protection, relief, remedy and punishment must comport with the representation to the CAT by the United States in its Initial Report, and there must be full equivalence of protection, remedy, relief and punishment under domestic pathways, with the self-executory (direct) application of UNCAT. It is the judicial branch of the states and the judicial branch of the federal government that must ultimately ensure compliance. The same requirement of compliance is required by *jus cogens* commemorated by the VCLT.

Therefore the federal court may not pass on a case which may indicate or plead a UNCAT violation by the state, rendering it ripe at any time. Therefore the question of federal jurisdiction is controlled in part by this consideration. The burden upon the judiciary is not a proper consideration in regard to jurisdiction.

This understanding is not just a technicality—it's a structural firewall against accountability. It allows the U.S. to ratify UNCAT while evading its core obligations through jurisdictional disclaimers. Therefore the first reservation must be viewed as being impermissible.

DECLARATION 1

Declaration 1 of the United States is potentially the most dangerous for judges: “*the United States declares that the provisions of Articles 1 through 16 of the Convention are not self-executing*”. I have personally witnessed a chief judge conclude that because of Declaration 1 of the RUD, despite evidence of every element of Articles 1 and 16 in the

record, and the failure of ‘equivalence’, the UNCAT may not be pled as cause for remedy or relief. Consider the judge’s criminal liability according to the UNCAT. This declaration is a structural firewall that undermines the enforceability of UNCAT within the U.S. legal system, and has been rejected by the Committee Against Torture (CAT) in its 2014 Concluding Observations. It is unsuccessfully justified by the U.S. to the CAT through the allegation of ‘equivalence’ of constitutional and existing statutory provisions that equivalently implement the UNCAT and arrive at the same remedies, relief and punishment as would occur under UNCAT. This allegation by the U.S. has been demonstrated to be transparently false.

The CAT has urged the USA to (a) withdraw the Declaration; (b) ensure full applicability of UNCAT provisions; (c) enable victims to invoke treaty rights in court. From the 2014 Concluding Observations of the CAT, we note: “*The Committee regrets that the State party maintains its declaration that the provisions of the Convention are not self-executing and therefore not directly applicable as law in the domestic legal order.*” This is a formal rebuke. It signals that the U.S. cannot hide behind domestic legal doctrine to avoid its international obligations. Under Article VI, no Article III judge may fail to notice and apply the CAT’s Concluding Observations as clarification of federal constitutional compliance with the treaty, and every state judge is expressly bound to UNCAT compliance according to the CAT’s analysis and clarification. But Declaration 1 appears to judges, at first glance, to stand in the way, thus violating the UNCAT:

1. It blocks direct legal effect: Declaring Articles 1–16 “not self-executing” means that individuals cannot invoke UNCAT protections in U.S. courts unless Congress passes specific implementing legislation, which the CAT observes it has not. This: (a) Neutralizes the treaty’s core obligations; (b) Prevents victims from seeking redress; (c) Shields officials from accountability. UNCAT requires States to “ensure” rights—not merely promise them. Articles 12–14, for example, mandate prompt investigation and redress. Declaring these unenforceable guts their purpose.
2. Violates the object and purpose of the treaty: Under Article 19(c) of the Vienna Convention on the Law of Treaties, a reservation or declaration is invalid if it is: “incompatible with the object and purpose of the treaty.” UNCAT’s object is to prevent and punish torture, and to ensure access to remedies. In the absence of

‘equivalence’ and the stark lack of implementing statutes, the U.S. declaration: (a) Blocks enforcement; (b) Undermines prevention, (c) Denies victims standing. This is incompatible with the treaty’s purpose and violates international law. It can be seen that these considerations are potentially applicable to the Betts case.

3. The CAT urged the U.S. to: (a) Withdraw the declaration; (b) Ensure full applicability of UNCAT provisions; (c) Enable victims to invoke treaty rights in court. It signals that the U.S. cannot hide behind domestic legal doctrine to avoid its international obligations. Every domestic court is required to carefully note the ‘findings’ of the CAT and adjudicate accordingly them. There is no sovereignty barrier to this necessary compliance. Declaration 1 may not be used as a jurisdictional shield, which is perceived by judges as allowing U.S. courts to dismiss torture claims even when they violate binding treaty norms. It is not just a procedural footnote; it’s a systemic denial of remedy, and opens the door to criminal liability for judges with no immunity²¹. The CAT’s 2014 observations make clear that this declaration is incompatible with UNCAT and should be treated as unenforceable under international law.

CONCLUSION

With respect to the discussion of the UNCAT RUDs, it is the expectation both of Congress and of the Executive and of the CAT that the Judicial branch of the United States will address and correct the US non-compliance with the UNCAT. Here Betts, construed in the light of a human rights complaint for UNCAT violations, places the judicial branch squarely under scrutiny by inherently knowing that judicial intervention and responsibility is required to address an issue that she is unable to adequately express under the strictures of customary jurisprudence.

The 2014 Concluding Observation of the CAT has specified the necessary judicial actions and systemic corrections, including the investigation-independence appropriate to the scenario. Since the independent investigation must occur by a body that is independent of) the three branches of) government, a pathway must be prominently carved in the judicial process to incorporate this investigatory mechanism.

²¹ See discussion on judicial and sovereign immunity below.

APPENDIX 3

International Precedents and Comparative Law on Judicial Torture and CIDT: An IAJ review

Executive Summary

Today, ‘judicial torture’ properly covers (i) judicially ordered corporal punishment; (ii) court-process-linked torture/CIDT¹; (iii) state acquiescence in private violence connected to proceedings. Judicial acquiescence to torture is tantamount to torture. This analysis examines international precedents and comparative law on judicial torture and cruel, inhuman, or degrading treatment (CIDT) across five critical areas of international legal authority. The research reveals a consistent international consensus that torture prohibition constitutes a *jus cogens* norm of customary international law, establishing absolute and non-derogable obligations for states regardless of exceptional circumstances. The prohibition dates back to the earliest days of the international formulation of human rights standards².

While regional and international judicial bodies have developed sophisticated jurisprudence defining torture and state obligations, significant implementation gaps persist in judicial contexts, particularly regarding procedural safeguards, accountability mechanisms, and effective remedies for victims. U.S. doctrine on torture are sparse, with examples such as *Sosa v. Alvarez-Machain*³ acknowledging torture as a law-of-nations violation under the ATS; *Filártiga* ⁴; exclusionary principles; and the *Medellín* ⁵/*Avena* ⁶ implementation tension.

Key findings demonstrate that international courts and treaty monitoring bodies have established complementary frameworks that collectively strengthen the global prohibition against torture, though enforcement mechanisms vary significantly across jurisdictions. The analysis identifies both convergent principles and critical gaps in ensuring judicial accountability for torture prevention and prosecution.

¹ CIDT: Cruel, Inhuman, or Degrading Treatment or Punishment

² Convention for the Protection of Human Rights and Fundamental Freedoms art. 3, Nov. 4, 1950, 213 U.N.T.S. 221 (ECHR)

³ *Sosa v. Alvarez-Machain*, 542 U.S. 692, 732 (2004)

⁴ *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980)

⁵ *Medellín v. Texas*, 552 U.S. 491 (2008)

⁶ *Avena and Other Mexican Nationals* (Mex. v. U.S.), Judgment, 2004 I.C.J. 12 (Mar. 31)

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1. Introduction

The absolute prohibition of torture represents one of the most fundamental principles of international human rights law. This comprehensive analysis examines how international judicial bodies, treaty monitoring mechanisms, and national legal systems have developed and implemented precedents regarding judicial torture and CIDT. The research focuses on five specific areas of international legal authority: European Court of Human Rights decisions on judicial misconduct, International Criminal Court precedents on torture, UN Committee Against Torture jurisprudence, comparative national implementation of UNCAT in judicial contexts, and International Court of Justice advisory opinions on treaty supremacy.

The analysis draws upon primary legal sources, authoritative interpretations by international bodies, and comparative studies of domestic implementation to provide a comprehensive understanding of the current state of international law on judicial torture prevention and accountability.

2. European Court of Human Rights: Article 3 ECHR in Judicial Contexts

2.1 Foundational Principles and Jurisprudence

The European Court of Human Rights (ECtHR) has developed extensive jurisprudence under Article 3 of the European Convention on Human Rights⁷, which prohibits torture and inhuman or degrading treatment or punishment in absolute terms. The Court has consistently emphasized that this prohibition is absolute and non-derogable, allowing no exceptions even in times of war or public emergency.

2.2 Definitional Framework and Standards

The ECtHR has established a sophisticated definitional framework distinguishing between torture, inhuman treatment, and degrading treatment based on severity and purposive elements. The Court initially distinguished torture from other ill-treatment primarily on severity grounds in landmark cases such as *Ireland v. United Kingdom*⁸, but later re-emphasized the purposive element in *Selmouni v. France*⁹, referencing the UN Convention Against Torture definition. The Court's "living instrument" doctrine allows for the reclassification of acts over time, recognizing that treatment previously classified as "inhuman and degrading treatment" could be classified as torture in the future.

Key Judicial Torture Cases:

- **Rape as Torture:** In *Aydin v. Turkey*¹⁰, the Court established that rape by state agents can constitute torture, setting important precedent for recognizing sexual violence in judicial contexts as torture.
- **Judicially ordered penalties:** In *Tyrer v. United Kingdom*¹¹, the Court ruled that judicial corporal punishment constitutes degrading treatment, emphasizing that it constitutes "an assault on precisely

⁷ Guide on Article 3 of the European Convention on Human Rights: Prohibition of torture, European Court of Human Rights (2025) -- https://ks.echr.coe.int/documents/d/echr-ks/guide_art_3_eng

⁸ *Ireland v. United Kingdom*, App. No. 5310/71, ¶¶ 167–68 (Eur. Ct. H.R. Jan. 18, 1978), <https://hudoc.echr.coe.int/eng?i=001-57506>

⁹ *Selmouni v. France* [GC], App. No. 25803/94, ¶¶ 101–05 (Eur. Ct. H.R. July 28, 1999), <https://hudoc.echr.coe.int/eng?i=001-58287>

¹⁰ *Aydin v. Turkey*, App. No. 23178/94, ¶¶ 83–84 (Eur. Ct. H.R. Sept. 25, 1997), <https://hudoc.echr.coe.int/eng?i=001-2438>

¹¹ *Tyrer v. United Kingdom*, App. No. 5856/72, ¶¶ 31–33 (Eur. Ct. H.R. Apr. 25, 1978), <https://hudoc.echr.coe.int/eng?i=001-55404>

that which it is one of the main purposes of Article 3 to protect, namely a person's dignity and physical integrity". Contrast with UNCAT where corporal punishment = degrading treatment.

2.3 State Obligations and Procedural Requirements

The ECtHR has established comprehensive state obligations regarding torture prevention in judicial contexts:

- **Positive Duties:** States must protect individuals from torture and CIDT by private actors, particularly vulnerable groups such as children, through legislative measures and intervention when necessary.
- **Duty to Investigate:** States have a positive obligation to conduct effective investigations into allegations of ill-treatment, especially when events are within state knowledge. This duty is independent of formal complaints and extends to ill-treatment by private actors (*Assenov and Others v Bulgaria*¹²; *El-Masri v "the former Yugoslav Republic of Macedonia"* [GC]¹³).
- **Exclusionary Rule:** The Court has firmly established that any evidence obtained through torture cannot be used as proof of guilt, as this would violate both Article 6(1) (right to fair trial) and Article 3, as demonstrated in *Jalloh v. Germany*¹⁴.
- **Training and Safeguards:** Articles 5 and 6 ECHR outline essential procedural safeguards including prompt information on arrest, being brought before a judge, legal assistance, and proper medical examinations.

3. International Criminal Court: Torture as International Crime

3.1 Rome Statute Framework and Elements

The International Criminal Court has established precise legal standards for torture as both a crime against humanity and a war crime under Articles 7 and 8 of the Rome Statute¹⁵. The ICC Elements of Crimes¹⁶ provide detailed definitions that have influenced international jurisprudence:

- **Article 7(1)(f) - Torture as Crime Against Humanity:**
 1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons
 2. Such persons were in the custody or under the control of the perpetrator
 3. Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions
 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population
 5. The perpetrator knew the conduct was part of such an attack
- **Article 8 - Torture as War Crime** (both international and non-international armed conflict): The elements include severe physical or mental pain or suffering inflicted for specific purposes (obtaining

¹² *Assenov and Others v. Bulgaria* (Application no. 90/1997/874/1086) -- <https://policehumanrightsresources.org/assenov-and-others-v-bulgaria-application-no-90-1997-874-1086>

¹³ *El-Masri v "The Former Yugoslav Republic of Macedonia"*, Application No. 39630/09, European Court of Human Rights (2012) - <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur650012012en.pdf>

¹⁴ *Jalloh v. Germany* [GC], App. No. 54810/00, ¶¶ 82, 99–105, 117–22 (Eur. Ct. H.R. July 11, 2006), <https://hudoc.echr.coe.int/eng?i=001-76307>

¹⁵ Rome Statute of the International Criminal Court -- <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

¹⁶ International Criminal Court, Elements of Crimes, ICC-ASP/1/3 (2002) (as amended 2011), <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>

information, confession, punishment, intimidation, coercion, or discrimination), with requirements for protected status under Geneva Conventions for international conflicts¹⁷.

3.2 Precedential Development and Judicial Interpretation

ICC jurisprudence has contributed to international understanding of torture through several key developments:

- **Purpose Requirements:** The Court has emphasized that torture requires specific purposes, distinguishing it from other severe crimes like inhuman treatment or cruel treatment.
- **Official Capacity Requirements:** The ICC has interpreted the "official capacity requirement" in various contexts, contributing to understanding of state responsibility for torture. Note distinction: UNCAT (official involvement/acquiescence) and ICC (contextual elements; no public-official prerequisite)
- **Contextual Elements:** The Court's analysis of torture within the context of crimes against humanity and war crimes has established important precedents for understanding systematic and widespread torture.

3.3 UNCAT distinction

UNCAT¹⁸ Art. 1 requires public-official involvement or acquiescence (or someone acting in an official capacity) and a purpose (e.g., coercion, punishment, discrimination). ICC Art. 7(1)(f) (crimes against humanity)¹⁹ has no public-official requirement; instead, it requires custody/control, severe pain/suffering, and that the act occur as part of a widespread or systematic attack against civilians. War-crime torture (Art. 8)²⁰ has its own contextual elements.

4. UN Committee Against Torture: Authoritative Jurisprudence

4.1 General Comments and Interpretive Authority

The UN Committee Against Torture (CAT) serves as the authoritative interpreter of the Convention Against Torture and has developed comprehensive jurisprudence through General Comments²¹, Concluding Observations²², and individual communications²³.

General Comment No. 2 establishes fundamental principles:

- The prohibition against torture is absolute and non-derogable, constituting a *jus cogens* norm of customary international law
- No exceptional circumstances whatsoever may justify torture, including war, internal political instability, public emergency, terrorist threats, violent crime, or armed conflict

¹⁷ <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf>

¹⁸ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 2(2), 15, Dec. 10, 1984, 1465 U.N.T.S. 85 (UNCAT).

¹⁹ <https://ihl-databases.icrc.org/en/ihl-treaties/icc-statute-1998/article-7>

²⁰ <https://www.icrc.org/en/document/statute-international-criminal-court-article-8>

²¹ Committee Against Torture, General Comment No. 2, CAT/C/GC/2 (Jan. 24, 2008), ¶¶ 1, 3–5, 24,

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-2-implementation-article-2-states>

²² CAT/C/USA/CO/3-5: Concluding observations on the combined third to fifth periodic reports of the United States of America - <https://www.ohchr.org/en/documents/concluding-observations/catcusaco3-5-concluding-observations-combined-third-fifth>

²³ <https://www.ohchr.org/en/treaty-bodies/cat>

- States bear responsibility for acts by officials, agents, private contractors, and others acting under state direction or control
- Due diligence obligations extend to preventing torture by non-state actors

4.2 State Obligations in Judicial Contexts

The Committee has identified comprehensive state obligations specifically relevant to judicial contexts^{24,25,26}:

- **Criminalization Requirements:** States must criminalize torture as a separate offense under national criminal law, ensuring definitions conform to Article 1 UNCAT, with penalties commensurate with the crime's gravity.
- **Procedural Safeguards:** The Committee requires states to implement:
 - Official registers of detainees
 - Rights information for detained persons
 - Prompt access to independent legal assistance
 - Independent medical assistance
 - Contact with relatives
 - Impartial inspection mechanisms for detention places
 - Judicial and other remedies for examining complaints and challenging detention
- **Exclusionary Rule:** UNCAT Article 15²⁷ prohibits using torture-obtained statements as evidence in any proceedings, except against alleged torturers as evidence the statement was made under torture.

4.3 Jurisprudence on Judicial Torture

The Committee's concluding observations reveal systematic concerns about judicial torture across multiple jurisdictions:

- **Common Violations:** The Committee consistently identifies failures in judicial oversight, inadequate investigation of torture allegations, reliance on confession-based prosecutions, and insufficient procedural safeguards during detention.

²⁴ Committee against Torture, General Comment No. 2: Implementation of article 2 by States parties, CAT/C/GC/2 (24 Jan. 2008) — defines State duties that include judicial action and access to judicial remedies: “Article 2, paragraph 1 obliges each State party to take actions... through legislative, administrative, judicial, or other actions...” --

https://hrlibrary.umn.edu/cat/general_comments/cat-gencom2.html -- “Such guarantees include... the availability... of judicial and other remedies that will allow [complaints] to be promptly and impartially examined...” -- “Article... 15 (prohibiting confessions extorted by torture being admitted in evidence, except against the torturer)...” (exclusionary rule for courts)

²⁵ Committee against Torture, General Comment No. 3 (2012) on the implementation of article 14 by States parties, CAT/C/GC/3 (13 Dec. 2012) — requires access to a judicial remedy and enforceable compensation/rehabilitation: “Each State party is required to ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including... rehabilitation.” --

https://hrlibrary.umn.edu/cat/general_comments/cat_gen_com3.html -- (GC 3 further clarifies that domestic law must allow individuals to exercise this right and ensure access to a judicial remedy)

²⁶ See also Convention against Torture, Article 15 — primary treaty rule for courts (inadmissibility of torture-tainted evidence): “Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture...” (Art. 15)

²⁷ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

- **Remedial Measures:** The Committee regularly recommends strengthening judicial independence, implementing video recording of interrogations, ensuring prompt medical examinations, and establishing independent oversight mechanisms.

5. Comparative National Implementation of UNCAT in Judicial Contexts

5.1 Common Law African Systems

Research on common law African jurisdictions reveals significant variations in UNCAT implementation within judicial systems²⁸:

- **Legislative Frameworks:**
 - **Kenya, Nigeria, South Africa, and Uganda** have enacted standalone anti-torture laws with definitions largely aligned with UNCAT Article 1
 - **Ghana and Sudan** criminalize torture only in limited contexts (prison officers, evidence extraction)
 - **The Gambia and Zimbabwe** rely on ordinary criminal offenses rather than specific torture crimes
- **Judicial Safeguards Implementation:** Most reviewed states have incorporated basic procedural safeguards, though implementation gaps persist:
 - **Registration:** Varying requirements and poor practical compliance
 - **Legal Access:** Universal provision but practical hindrances including financial barriers
 - **Medical Examination:** Rights established but independence concerns in some jurisdictions
 - **Judicial Oversight:** Time limits often exceed international standards, resource constraints affect compliance

5.2 European and North American Systems

Germany: The Federal Constitutional Court has recognized international law supremacy in human rights matters. Under Basic Law art. 25²⁹, the general rules of international law have supra-statutory rank; the ECHR is applied via statute and constitutional interpretation. German courts integrate international standards in rights adjudication, though recent Article 3 jurisprudence specific to 'judicial torture' is sparse.

Canada: The Supreme Court's decision in *Suresh v. Canada*³⁰ established important precedents regarding the absolute prohibition of torture and non-refoulement principles, though it controversially suggested possible exceptions in extraordinary circumstances. Subsequent practice and international standards treat non-refoulement to torture as effectively absolute.

United Kingdom: The House of Lords' decisions in the *Pinochet* cases³¹ established groundbreaking precedents on universal jurisdiction for torture, rejecting immunity claims for former heads of state and emphasizing international law supremacy over domestic immunity provisions.

²⁸ Anti-Torture Standards In Common Law Africa: Good Practices and Way Forward, REDRESS (2022) --

https://redress.org/storage/2022/04/06.04.2022-CTI-REDRESS-Anti-Torture-Law-Standards-in-Africa_Report_WEB.pdf

²⁹ Basic Law for the Federal Republic of Germany art. 25 (Ger.), translation: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0135

³⁰ *Suresh v. Canada* (Minister of Citizenship & Immigration), 2002 SCC 1, [2002] 1 S.C.R. 3, ¶¶ 72–78

³¹ *R v. Bow Street Metro. Stipendiary Magistrate, ex parte Pinochet* (No. 3) [2000] 1 AC 147 (HL)

5.3 Comparative Judicial Approaches

Universal Jurisdiction: States demonstrate varying approaches to implementing universal jurisdiction over torture:

- **Uganda, Kenya, South Africa:** Comprehensive provisions establishing territorial, nationality, and universal jurisdiction
- **Other jurisdictions:** Often lack universal jurisdiction provisions, relying on general criminal law
- **Accountability Mechanisms:** Significant disparities exist in prosecutorial practices:
- **Low prosecution rates:** Few criminal proceedings under specific anti-torture laws
- **Procedural barriers:** Amnesties, immunities, and statutes of limitation continue to impede accountability
- **Civil vs. criminal remedies:** Civil proceedings more common but fail to establish individual criminal responsibility

6. International Court of Justice: Treaty Supremacy and State Obligations

6.1 Advisory Opinions on Treaty Implementation

While the ICJ has not issued specific advisory opinions exclusively on torture prohibition, several contentious cases establish important precedents regarding treaty supremacy and state obligations relevant to torture prevention.

Avena and Other Mexican Nationals (Mexico v. United States)³²: This landmark case establishes critical precedents for treaty supremacy over domestic law:

- **Treaty Obligations:** The Court affirmed that international treaty obligations (Vienna Convention on Consular Relations) take precedence over domestic procedural rules
- **Judicial Review Requirements:** States must provide "review and reconsideration" by courts of convictions and sentences impaired by treaty violations, with executive clemency alone insufficient
- **Reparation Obligations:** International law requires "reparation in an adequate form" for proven treaty violations^{33, 34, 35}
- **Domestic enforceability:** Subsequent U.S. jurisprudence (*Medellín v Texas*) addressed domestic enforceability in the absence of implementing legislation; this does not negate the international obligation.

³² *Avena and Other Mexican Nationals* (Mex. v. U.S.), Judgment, 2004 I.C.J. 12 (Mar. 31)

³³ "It is a principle of international law that the breach of an engagement involves an obligation to make **reparation in an adequate form**." (*Factory at Chorzów* (Jurisdiction), PCIJ, 1927.) United Nations Office of Legal Affairs, Article 51, Part 2: Chapter I. General Principles --

https://legal.un.org/legislative-series/pdfs/chapters/book25/english/book25_part2_ch1_art31.pdf

³⁴ The Court consistently applies *Chorzów's* rule on full reparation, e.g. *Ahmadou Sadio Diallo* (Compensation): "reparation must, as far as possible, wipe out all the consequences of the illegal act." (para. 13) -- *Affaire Ahmadou Sadio Diallo* (RÉPUBLIQUE DE GUINÉE c. RÉPUBLIQUE DÉMOCRATIQUE DU CONGO), INDEMNISATION DUE PAR LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO À LA RÉPUBLIQUE DE GUINÉE, ARRÊT DU 19 JUIN 2012 -- <https://api.icj-cij.org/sites/default/files/case-related/103/103-20120619-JUD-01-00-EN.pdf>

³⁵ *Certain Activities (Costa Rica v. Nicaragua)* — Compensation Judgment (2018), where the Court again grounded its remedial analysis in the *Chorzów* Factory standard -- <https://www.icj-cij.org/node/105540>

6.2 Jurisdictional Immunities and *jus cogens*

*Belgium v. Congo (Arrest Warrant Case)*³⁶: While primarily addressing diplomatic immunity, this case touched on universal jurisdiction for torture:

- The Court recognized that certain crimes, including torture, may not benefit from immunity under international law
- However, the Court maintained a restrictive approach to the relationship between immunity and *jus cogens* prohibitions. The majority reaffirmed full personal immunity of an incumbent foreign minister before foreign national courts—even for alleged international crimes. It underscored that immunity does not equal impunity: prosecution may proceed after the term, by certain international courts, or upon waiver. Separate/dissenting opinions urged a *jus cogens*-based narrowing, but the Court did not adopt such an exception.
- Separate and dissenting opinions emphasized the fundamental nature of torture prohibition

6.3 Implications for Judicial Torture Prevention

ICJ jurisprudence establishes several principles directly relevant to judicial torture prevention:

- **Treaty Implementation:** States cannot invoke domestic law, including constitutional provisions or procedural rules, to avoid international treaty obligations regarding torture prevention.
- **Effective Remedies:** The principle that international law requires effective remedies for treaty violations applies directly to torture prevention and victim redress.
- **State Responsibility:** The Court's analysis of state responsibility in various cases supports comprehensive state obligations to prevent, investigate, and punish torture regardless of who commits it.

7. Synthesis and Comparative Analysis

7.1 Convergent Principles Across Jurisdictions

- **Absolute Prohibition:** All examined international bodies recognize torture prohibition as absolute, non-derogable, and constituting *jus cogens*. This consistency strengthens the global prohibition and eliminates potential jurisdictional loopholes.
- **State Responsibility:** Comprehensive agreement exists regarding state responsibility for torture committed by officials, agents, or private actors under state control or with state acquiescence. This principle applies across all jurisdictions examined.
- **Procedural Safeguards:** International consensus supports essential procedural safeguards in judicial contexts: prompt legal access, medical examinations, judicial oversight, and official registration of detention.
- **Exclusionary Rule:** Universal agreement that torture-obtained evidence must be excluded from legal proceedings, though enforcement mechanisms vary significantly. Derivative-evidence and scope vary by jurisdiction.

³⁶ International Court of Justice (*Democratic Republic of the Congo v. Belgium*) Judgment Of 14 February 2002 Mode official de citation: du Congoc. Belgique), arrêt, C.I.J. Recueil 2002, 3p. of the Congo v. Belgium), Judgment, I.C.J. Reports 2002,3p. -- <https://icj-cij.org/case/121>

7.2 Divergences and Implementation Gaps

Definitional Variations: While core elements of torture remain consistent, regional variations exist in purpose requirements, severity thresholds, and distinctions between torture and CIDT.

Enforcement Mechanisms: Significant disparities exist in:

- **Universal jurisdiction implementation:** Some states provide comprehensive frameworks while others lack specific provisions
- **Prosecution rates:** Criminal accountability remains inconsistently enforced across jurisdictions
- **Victim remedies:** Access to redress varies substantially, with many jurisdictions lacking comprehensive rehabilitation programs
- **Judicial Independence:** Variations in judicial independence affect torture prevention effectiveness, with some systems providing stronger protections for judicial decision-making regarding torture allegations.

7.3 Evolution of International Jurisprudence

Cross-Fertilization: International bodies increasingly reference each other's jurisprudence, creating more consistent global standards. For example:

- ECtHR adoption of UNCAT definitional elements
- Regional courts' incorporation of UN Special Rapporteur interpretations
- ICC elements influencing regional court definitions^{37,38}

Expanding Scope: Jurisprudence has evolved to address:

- **Gender-based violence:** Recognition of rape and sexual violence as torture
- **Vulnerable populations:** Enhanced protection for children, minorities, and other at-risk groups

³⁷ Inter-American Court of Human Rights — *Almonacid-Arellano v. Chile*. The Court develops the elements of crimes against humanity and (in the separate opinion) explicitly anchors the definition in the Rome Statute: “Crimes against humanity are currently defined in the Rome Statute of the International Criminal Court (Article 7).” (Separate Op., ¶199.) -- https://www.corteidh.or.cr/docs/casos/articulos/seriec_154_ing.pdf -- See also Judgment ¶¶95–103 (deriving the elements and applying them).

³⁸ UN International Law Commission (Crimes against Humanity project): The ILC explains that regional human rights courts (ECHR & IACtHR) have addressed crimes against humanity issues (fair trial, *ne bis in idem*, *nullum crimen*, amnesties), and it uses Rome Statute Article 7 as the baseline definition for its draft articles: “The definition of ‘crime against humanity’ in article 7 of the Rome Statute ... is now being used by many States when adopting or amending their national laws. The Commission considered article 7 to be an appropriate basis for defining such crimes...” (Commentary) -- https://legal.un.org/ilc/texts/instruments/english/commentaries/7_7_2019.pdf -- “Crimes against humanity also have been mentioned in the European Court of Human Rights and the Inter-American Court of Human Rights when evaluating issues such as fair trial rights, *ne bis in idem*, *nullum crimen*, and the legality of amnesty provisions.” (Report text) -- <https://legal.un.org/ilc/reports/2019/english/chp4.pdf>

- **Non-state actors:** Expanded state responsibility for torture by private actors^{39,40,41,42,43}

³⁹ UN treaty law & general comments (binding on parties; highly persuasive globally):

- CAT General Comment No. 2 (2008) — expressly affirms State responsibility for private-actor torture/ill-treatment where authorities know or should know and fail to prevent, investigate, prosecute, and punish; treats such failure as “consent or acquiescence.” (See esp. ¶18.)
- ICCPR, HRCtee General Comment No. 31 (2004) — clarifies States must protect Covenant rights against violations by private persons or entities, exercising due diligence to prevent, punish, investigate, and redress harm. (¶18.)

⁴⁰ European Court of Human Rights (ECtHR) — Article 3 positive obligations (leading)

- *A v. United Kingdom* (1998) — inadequate domestic protection against severe corporal punishment by a step-parent violated Art. 3; establishes positive obligation to protect against private ill-treatment. -- <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-58232%22%7D>
- *Z and Others v. United Kingdom* (GC, 2001) — failure to take reasonable measures to protect abused children by private caretakers breached Art. 3. -- <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-59455%22%7D>
- *M.C. v. Bulgaria* (2003) — rape by private actors; State violated Arts. 3/8 by failing to investigate/prosecute effectively; confirms due-diligence duties. -- <https://interights.org/news/mcvbulgariaamicus.html>
- *Šečić v. Croatia* (2007) — racist assault by private individuals; Court reiterates Art. 3 imposes duties to prevent and to conduct an effective investigation into private violence. -- <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-80711%22%7D>
- *Kurt v. Austria* (GC, 2021) — synthesizes general principles on domestic-violence protection duties under Arts. 2/3; confirms robust positive-obligation framework toward non-State abuse. -- <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-210463%22%7D>

⁴¹ Inter-American Court of Human Rights (IACtHR) — seminal due-diligence line

- *Velásquez Rodríguez v. Honduras* (Merits, 1988) — foundational rule: States must prevent, investigate, punish, and provide redress; responsibility arises where authorities permit or fail to act regarding private abuses. (See esp. ¶¶172–177.) https://www.refworld.org/themes/custom/unhcr_rw/pdf-viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Flegacy-pdf%2Fen%2F1988-7%2F40279a9e4.pdf
- Monica Hakimi, State Bystander Responsibility, *The European Journal of International Law* Vol. 21 no. 2 (2010)
- *González et al. (“Cotton Field”) v. Mexico* (2009) — systemic femicides/domestic violence; State failed due diligence to prevent/protect/investigate private-actor violence; sets out prevention and investigation standards. -- <https://www.refworld.org/jurisprudence/caselaw/iacrthr/2009/en/107991>

⁴² African human-rights system

- African Commission, *Egyptian Initiative for Personal Rights & INTERIGHTS v. Egypt* (Comm. 323/06, 2011) — FGM by private actors; Commission found violations of the African Charter for failure to prevent/protect/investigate; a clear non-State actor due-diligence holding under Art. 5. -- <https://caselaw.ihlda.org/entity/02zo5txvhcwuh8zt0x06n7b9?file=1511795682626px8myvg9g1pxmxoxmzaxajor.pdf&page=17>
- African Commission General Comment No. 4 on Article 5 (2017) — codifies the right to redress for torture/ill-treatment and recognizes State duties toward harms by private persons, consistent with CAT GC2/HRC GC31. -- <https://www.refworld.org/jurisprudence/caselaw/iacrthr/2009/en/107991>

⁴³ Cross-cutting public international law (attribution & prevention)

- ILC Articles on State Responsibility (2001) — Art. 8 (direction/control) & due-diligence paradigm (commentary) frame when private conduct is attributable or when omissions incur responsibility. Frequently judicially noticed. -- https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf -- “Responsibility of States for Intentionally Wrongful Acts”
- ICJ, *Bosnia Genocide* (2007) — though on genocide, the Court articulates a robust due-diligence duty to prevent serious harms by non-State actors, often cited by regional bodies when describing State prevention obligations. (See e.g., ¶431.) <https://www.icj-cij.org/node/103164>

8. Critical Gaps and Challenges

8.1 Implementation Deficiencies

Resource Constraints: Many jurisdictions lack adequate resources for:

- Training judicial personnel on international standards
- Implementing comprehensive monitoring systems
- Providing adequate legal aid and medical services
- Maintaining proper detention facilities
- Institutional Capacity: Weak institutional frameworks in many jurisdictions undermine:
 - Independent investigation mechanisms
 - Effective prosecution systems
 - Comprehensive victim support services
 - Monitoring and oversight capabilities

8.2 Accountability Gaps

Impunity Persistence: Despite comprehensive legal frameworks, accountability gaps persist:

- Low prosecution rates: Few successful prosecutions under anti-torture laws
- Procedural barriers: Continuing obstacles including immunities, amnesties, and limitation periods
- Political interference: Executive interference in judicial processes undermines independence

Remedial Inadequacies: Victim redress remains inadequate in many jurisdictions:

- Limited compensation: Insufficient financial resources for victim compensation
- Rehabilitation gaps: Lack of comprehensive rehabilitation services
- Enforcement problems: Difficulty enforcing judicial awards and compensation orders

8.3 Systemic Challenges

Confession-Based Systems: Many legal systems continue to rely heavily on confessions, creating incentives for coercive interrogation despite legal prohibitions.

Training Deficiencies: Inadequate training for judicial personnel on:

- International torture standards
- Investigation techniques that avoid coercion
- Medical assessment of torture allegations
- Trauma-informed approaches to victim testimony

9. Recommendations for Strengthening International Frameworks

9.1 Enhanced Harmonization

Standardized Definitions: Greater harmonization of torture definitions across international and regional instruments would strengthen global prohibition and reduce jurisdictional confusion.

Procedural Standards: Development of minimum international standards for judicial procedures in torture-related cases, including investigation protocols, victim protection measures, and evidence evaluation standards.

9.2 Capacity Building

Judicial Training Programs: Comprehensive international programs for training judicial personnel on torture prevention, investigation, and victim protection, incorporating best practices from multiple jurisdictions.

Technical Assistance: Enhanced technical assistance for developing effective institutional frameworks, including independent oversight mechanisms, prosecution systems, and victim support services.

9.3 Accountability Mechanisms

Universal Jurisdiction: Strengthened universal jurisdiction frameworks through model legislation and international cooperation mechanisms to ensure no safe havens for torture perpetrators.

Monitoring and Reporting: Enhanced monitoring systems including mandatory reporting on torture prosecution rates, conviction outcomes, and victim redress implementation.

10. Conclusion

This analysis reveals a robust international legal framework prohibiting torture and establishing state obligations for prevention, investigation, prosecution, and redress. The UNCAT provides for evolving standards. International courts, treaty monitoring bodies, and regional systems have developed sophisticated jurisprudence that collectively strengthens the global prohibition against torture as a fundamental principle of international law.

However, significant implementation gaps persist, particularly in judicial contexts where torture prevention is most critical. While the legal framework is comprehensive, enforcement mechanisms remain inconsistent, accountability rates low, and victim redress inadequate across many jurisdictions.

The convergence of international jurisprudence around core principles—absolute prohibition, comprehensive state responsibility, essential procedural safeguards, and exclusionary rules—provides a strong foundation for strengthening torture prevention. The cross-fertilization of legal principles across international, regional, and domestic systems demonstrates the dynamic evolution of international human rights law.

Nevertheless, the persistent gaps between normative frameworks and practical implementation highlight the need for sustained efforts to strengthen institutional capacity, enhance judicial independence, improve training programs, and develop more effective accountability mechanisms. The international community

must address these implementation challenges to fulfill the promise of the absolute prohibition against torture enshrined in international law.

The analysis demonstrates that while international precedents provide clear guidance on preventing judicial torture and CIDT, translating these precedents into effective domestic protection remains an ongoing challenge requiring continued international cooperation, capacity building, and political commitment to human rights principles.

IAJ Document Version Control Log

Document ID: IAJ-LRV-20250903-002-PUB
Initial Release Date: 2025-09-03

Version History

Version	Date	Author(s)	Summary of Changes
v1.0	2025-09-03	CH_AI	Initial release

Classification: LRV (Review of Law)
Access Level: Public Release

APPENDIX 4

International Precedents and Comparative Law on Judicial Torture and CIDT

Executive Summary

This IAJ Quick Reference synthesizes primary international jurisprudence on torture and cruel, inhuman or degrading treatment or punishment (CIDT) with a focus on how these duties operate in judicial contexts. We clarify the distinct frameworks of the UN Convention against Torture (UNCAT), the European Convention on Human Rights (ECHR), the International Criminal Court (ICC) Statute, and key International Court of Justice (ICJ) decisions; correct common conflation (e.g., UNCAT's public-official element vs. ICC contextual elements); and map non-derogable duties to investigate, prevent, and exclude torture-tainted evidence.

Terminology & Framework

UNCAT (Art. 1 & 16): Defines torture as severe pain or suffering intentionally inflicted for a prohibited purpose, with involvement, consent, or acquiescence of a public official or person acting in an official capacity. CIDT (Art. 16) captures ill-treatment short of torture; both trigger duties to prevent, investigate, and redress (Arts. 2, 12–14).

ECHR (Art. 3): Absolute prohibition of torture/CIDT. Jurisprudence builds procedural duties (effective investigation), fair-trial safeguards (exclusion of torture-tainted evidence), and evolving severity thresholds.

ICC (Rome Statute Arts. 7 & 8): Torture as a crime against humanity or war crime does not require the perpetrator to be a public official; instead, contextual elements apply (e.g., custody/control; widespread or systematic attack for CAH).

ICJ (Avena; Arrest Warrant): Inter-State treaty obligations (e.g., Vienna Convention consular rights) and rules on personal immunities; domestic enforceability and immunities are distinct from substantive wrongfulness.

I. Article 3 ECHR in Judicial Contexts: Penalties, Process, Investigation, Exclusion

A. Judicially ordered penalties

In *Tyrer v United Kingdom*¹ the Court held that judicial corporal punishment (birching) constituted degrading punishment contrary to Article 3. The case also articulated the “living instrument” approach to interpretive evolution (e.g., §§ 31–33).

B. Ill-treatment in the criminal process

In landmark cases including *Ireland v United Kingdom*² and *Selmouni v France [GC]*³, the Court refined the torture/CIDT threshold, recognizing that standards rise as societies evolve (*Selmouni*, §§ 101–105). Sexual violence in custody has been recognized as torture (*Aydın v Turkey*⁴, e.g., §§ 83–88).

C. Duty to investigate (procedural limb of Art. 3)

Where an arguable claim of serious ill-treatment is raised, the State must conduct a prompt, independent, and effective investigation capable of leading to the identification and punishment of those responsible (*Assenov and Others v Bulgaria*⁵, § 102; *El-Masri v “the former Yugoslav Republic of Macedonia” [GC]*⁶, e.g., §§ 182–191).

D. Exclusionary rule and fair trial

The use of evidence obtained by treatment contrary to Article 3 undermines Article 6 fairness. In *Jalloh v Germany [GC]*⁷, the Court condemned forcible administration of emetics and found a violation of Articles 3 and 6 (e.g., §§ 82, 99–105, 117–122).

II. UNCAT Core Duties (with CAT General Comment No. 2)

UNCAT imposes non-derogable obligations to prevent torture/CIDT (Art. 2(2)), to investigate promptly and impartially (Arts. 12–13), to ensure redress (Art. 14), and to exclude statements made as a result of torture (Art. 15). CAT General Comment No. 2 emphasizes that States must not acquiesce in torture and that obligations extend to acts by or with the consent or acquiescence of public officials; these duties apply in judicial contexts (e.g., court-ordered penalties, admission of tainted evidence) and administrative processes.

III. ICC Framework — Distinct from UNCAT

For crimes against humanity (Rome Statute Art. 7(1)(f)), torture requires severe pain or suffering intentionally inflicted for prohibited purposes, but there is no requirement that the perpetrator be a public official; the act must occur as part of a widespread or systematic attack directed against a civilian population. For war crimes (Art. 8), distinct contextual elements apply. This differs from UNCAT, which has an explicit public-official/acquiescence element.

IV. ICJ: Avena and Arrest Warrant (Corrected Readings)

A. Avena and Other Mexican Nationals (*Mexico v United States*) — Contentious case

The ICJ held that the United States breached its obligations under the Vienna Convention on Consular Relations and required “review and reconsideration” by U.S. courts of convictions where consular notification was denied. Subsequent U.S. jurisprudence (*Medellín v Texas*) addressed domestic enforceability in the absence of implementing legislation; this does not negate the international obligation.

B. Arrest Warrant (*DRC v Belgium*) — Immunity is procedural, not impunity

The Court confirmed that an incumbent foreign minister enjoys full personal immunity before foreign national courts even in cases alleging international crimes; however, immunity does not mean impunity. Prosecution may follow after the term of office, before certain international courts, or upon waiver. The majority did not adopt a *jus cogens* exception to personal immunity.

V. Comparative Domestic Implementation (Selected)

Germany: Under Basic Law art. 25, the general rules of international law have supra-statutory rank; the ECHR is applied via statute and constitutional interpretation. Courts integrate Article 3 standards in rights adjudication, though specific “judicial torture” case law is limited.

Canada: In *Suresh v Canada* (2002), the Supreme Court condemned removal to a risk of torture while leaving a theoretical exception; subsequent practice and international standards treat non-refoulement to torture as effectively absolute.

VI. U.S. Bridge

U.S. courts recognize torture as a violation of the law of nations in Alien Tort Statute jurisprudence (e.g., *Filártiga v Peña-Irala*; *Sosa v Alvarez-Machain*). Federal criminalization of torture (18 U.S.C. §§ 2340–2340A) primarily addresses extraterritorial acts, leaving domestic CIDT gaps which are expected to be addressed via due-process doctrine, exclusionary rules, and statutory frameworks (e.g., ADA Title II) in judicial and administrative contexts.

VII. Significance of Committee Against Torture Concluding Observations

In CAT/C/USA/CO/3-5, the CAT observed that, based on the U.S. third to fifth Periodic Reports, and reports from NGOs, that the U.S. does not comply with its UNCAT treaty obligations. The U.S. has failed to provide domestic implementing legislation. The U.S.

RUDs (R1, U1, U2, U5, D1) must be withdrawn because they are severable under *jus cogens* of international law by defeating the object and purpose of the treaty. IAJ notes that under *jus cogens* absolute prohibition of torture, no withdrawal is possible from the UNCAT.

VIII. Synthesis and IAJ Application

Convergences: absolute prohibition; duty to investigate; exclusion of torture-tainted evidence; evolving severity threshold; institutional responsibilities in judicial settings. Divergences: scope of official-involvement requirements (UNCAT vs ICC); evidentiary doctrines (derivative use); and immunities.

Footnotes

¹. *Tyrer v. United Kingdom*, App. No. 5856/72, ¶¶ 31–33 (Eur. Ct. H.R. Apr. 25, 1978), <https://hudoc.echr.coe.int/eng?i=001-55404>.

². *Ireland v. United Kingdom*, App. No. 5310/71, ¶¶ 167–68 (Eur. Ct. H.R. Jan. 18, 1978), <https://hudoc.echr.coe.int/eng?i=001-57506>.

³. *Selmouni v. France* [GC], App. No. 25803/94, ¶¶ 101–05 (Eur. Ct. H.R. July 28, 1999), <https://hudoc.echr.coe.int/eng?i=001-58287>.

⁴. *Aydın v. Turkey*, App. No. 23178/94, ¶¶ 83–84 (Eur. Ct. H.R. Sept. 25, 1997), <https://hudoc.echr.coe.int/eng?i=001-2438>.

⁵. *Assenov & Others v. Bulgaria*, App. No. 24760/94, ¶ 102 (Eur. Ct. H.R. Oct. 28, 1998), <https://hudoc.echr.coe.int/eng?i=001-58261>.

⁶. *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], App. No. 39630/09, ¶¶ 182–91 (Eur. Ct. H.R. Dec. 13, 2012), <https://hudoc.echr.coe.int/eng?i=001-115621>.

⁷. *Jalloh v. Germany* [GC], App. No. 54810/00, ¶¶ 82, 99–105, 117–22 (Eur. Ct. H.R. July 11, 2006), <https://hudoc.echr.coe.int/eng?i=001-76307>.

IAJ Document Version Control Log

Document ID: IAJ-QRF-20250903-001-PUB
Initial Release Date: 2025-09-03

Version History

Version	Date	Author(s)	Summary of Changes
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v1.0	2025-09-03	CH_AI	Initial release

Classification: QRF (Quick Reference for Judges)
Access Level: Public Release

APPENDIX 5

Enhanced Constitutional Framework for Judicial Torture: An IAJ review

Executive Summary

This constitutional framework establishes the legal foundation for judicial torture claims by integrating five critical doctrines of constitutional and international law: Article VI supremacy, *jus cogens* peremptory norms, *Charming Betsy*¹ treaty interpretation, *Ex parte Young*² sovereign immunity exceptions, and constitutional Due Process protections. The framework demonstrates that the United States Constitution, in harmony with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³ (UNCAT), creates binding obligations on federal and state judiciaries to prevent, investigate, and remedy torture and cruel, inhuman, or degrading treatment (CIDT) committed by or with the acquiescence of state officials.

The constitutional foundation rests on Article VI's declaration that treaties constitute "supreme Law of the Land,"⁴ binding judges in every state. When integrated with *jus cogens* peremptory norms prohibiting torture, the *Charming Betsy* doctrine's interpretive requirements, *Ex parte Young*'s remedial pathways, and substantive due process protections, a comprehensive framework emerges that obligates courts to recognize, investigate, and provide relief for torture claims—regardless of traditional doctrines of abstention, sovereign immunity, or judicial deference.

1. Constitutional Foundation Analysis

1.1 Article VI Supremacy Doctrine: Treaties as Supreme Law

Historical Evolution and Binding Character

The Article VI Supremacy Clause establishes that "this Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." [1]

The foundational case of *Ware v. Hylton*⁵ (1796) established the supremacy of federal treaties over conflicting state laws. The Court held that the 1783 Treaty of Peace nullified a Virginia statute that purported to discharge American debtors who had paid into the state loan office rather than to British creditors. Justice Chase emphasized that treaties, by the Constitution's Supremacy Clause, stand as "supreme Law of the Land," binding judges in every state regardless of contrary state constitution or laws. [1] This principle directly applies to UNCAT obligations, which must supersede conflicting state laws or judicial practices.

¹ *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804)

² *Ex parte Young*, 209 U.S. 123 (1908)

³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

⁴ Defined in Article VI or the US Constitution

⁵ *Ware v. Hylton*, 3 U.S. (3 Dall.) 199 (1796)

*Missouri v. Holland*⁶ (1920) further expanded federal treaty power by holding that Congress can implement treaties even in areas beyond its enumerated powers. Justice Holmes wrote that the treaty-making power "*is not limited to what Congress can do unaided by treaty*," and that the Tenth Amendment does not constrain powers expressly delegated to the federal government, including treaty-making. This principle is crucial for UNCAT implementation, as it establishes that treaty obligations can reach matters traditionally within state judicial authority.

Contemporary Application to Human Rights Treaties

The tension between treaty supremacy and domestic implementation was addressed in *Medellín v. Texas*⁷ (2008), which distinguished between self-executing and non-self-executing treaties. While the Court held that certain treaty provisions require implementing legislation for direct domestic enforcement, it preserved the obligation under the *Charming Betsy* doctrine to interpret domestic law consistently with treaty commitments.[5] Critically, *Medellín* did not absolve the United States of its binding international obligations or eliminate judicial interpretive duties.

The Committee Against Torture (CAT), recognized by the United States as the authority on torture and CIDT, determined in 2014 that the United States does not comply with the UNCAT and its international obligations. The CAT traced the failure to the U.S. reservations, understandings and declarations (RUDs), which are contrary to international law, and also identified the U.S. failure as caused by virtue of the absence of implementing domestic legislation. Thus the domestic pathways to protection, relief, and remedy from torture and its punishment are **inequivalent** to the UNCAT's direct enforcement in US Courts.

1.2 *Jus cogens*: Peremptory Norms and Hierarchical Supremacy

The Prohibition of Torture as Peremptory Law

Jus cogens norms represent the highest tier of international law—peremptory norms from which no derogation is permitted under any circumstances. The prohibition of torture has achieved universal recognition as a *jus cogens* norm, accepted by domestic courts, international tribunals, and legal scholars worldwide. As the European Court of Human Rights noted in *Al-Adsani v. United Kingdom*⁸, the prohibition of torture has achieved the status of a peremptory norm in international law.

The Vienna Convention on the Law of Treaties (VCLT), which codifies customary international law, provides that treaties conflicting with *jus cogens* norms are void (Article 53). This principle directly impacts the validity of U.S. reservations, understandings, and declarations (RUDs) to UNCAT that purport to limit or modify the absolute prohibition of torture. Any RUD that undermines UNCAT's object and purpose—the absolute prohibition of torture—is invalid under international law.

Domestic Application of *jus cogens* Norms

U.S. federal courts have recognized torture as a violation of the law of nations actionable under the Alien Tort Statute, acknowledging its *jus cogens* character. The principle that no domestic law can authorize what international law prohibits as *jus cogens* creates a constitutional imperative: American courts cannot validate or acquiesce in torture, regardless of domestic legal justifications.

This principle has profound implications for judicial conduct. When state or federal courts engage in practices that constitute torture or CIDT—such as systematic family separation, denial of fundamental procedural

⁶ *Missouri v. Holland*, 252 U.S. 416 (1920)

⁷ *Medellín v. Texas*, 552 U.S. 491, 504–05 (2008)

⁸ *Case of Al-Adsani v. the United Kingdom*, European Court of Human Rights, Application no. 35763/97, (2001)

rights, or discriminatory treatment—they violate not only constitutional guarantees but peremptory norms of international law that admit no exception.

1.3 Charming Betsy Doctrine: Treaty-Consistent Interpretation

Foundational Interpretive Canon

The *Charming Betsy* doctrine, established in *Murray v. The Charming Betsy* (1804), holds that "*an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains.*" Chief Justice Marshall's principle extends beyond congressional statutes to all governmental action, requiring interpretation of domestic law in harmony with international obligations.

This interpretive canon serves multiple constitutional functions: it respects the political branches' foreign affairs prerogatives, avoids international law violations that could trigger state responsibility, and ensures faithful execution of treaty commitments. The doctrine applies with particular force to human rights treaties, where violation risks both international responsibility and harm to fundamental rights.

Application to Human Rights Claims

Modern courts have applied *Charming Betsy* to human rights contexts, requiring interpretation of ambiguous statutes consistently with treaty obligations. Even in the post-*Medellín* era, courts retain the obligation to construe domestic law harmoniously with treaty commitments unless Congress has clearly expressed contrary intent.

For judicial torture claims, *Charming Betsy* requires courts to interpret procedural rules, jurisdictional doctrines, and remedial provisions consistently with UNCAT obligations. Courts cannot invoke domestic procedural barriers—such as abstention doctrines or sovereign immunity—in ways that effectively nullify treaty protections against torture and CIDT.

1.4 *Ex Parte Young* Doctrine: Sovereign Immunity Exceptions for Constitutional Violations

Foundational Sovereign Immunity Exception

The *Ex parte Young* doctrine (1908) established a critical exception to Eleventh Amendment sovereign immunity, holding that federal courts may enjoin state officials from enforcing unconstitutional laws. The Court reasoned that an official attempting to enforce an unconstitutional statute acts without state authority, is "stripped of his official or representative character," and becomes subject to federal judicial authority.

The doctrine rests on constitutional supremacy: the state cannot confer immunity from the supreme authority of the United States Constitution. When state officials violate federal constitutional or treaty rights, they lose the protection of sovereign immunity and may be enjoined in their individual capacity.

Extension to Treaty-Based Claims

Legal scholarship has demonstrated that *Ex parte Young* establishes an implied right of action under the Supremacy Clause for injunctive relief against state officials who violate federal statutes or treaties, including treaty-based human rights claims. This remedy is available unless Congress or treaty makers explicitly foreclosed it—which was not done for ratified human rights treaties.

The doctrine's application to human rights treaties is particularly significant because it provides a remedial pathway independent of statutory implementation. Even if a treaty is deemed non-self-executing for damages purposes, *Ex parte Young* relief remains available for ongoing violations of treaty-protected rights.

Procedural Requirements and Scope

Ex parte Young relief requires: (1) ongoing violation of federal law, (2) some connection between the official and the enforcement of the challenged conduct, and (3) prospective relief that will end the violation. The doctrine permits injunctive relief against state officials but prohibits retrospective monetary relief from state treasuries.

For judicial torture claims, these requirements are typically satisfied when state judicial or administrative officials engage in systemic practices violating UNCAT protections. The prospective nature of available relief—such as injunctions requiring independent investigations, procedural reforms, or cessation of discriminatory practices—aligns with UNCAT's preventive objectives.

1.5 Constitutional Due Process and UNCAT Intersection

Substantive Due Process and Torture Prohibition

The Fifth and Fourteenth Amendments' Due Process Clauses protect fundamental rights against arbitrary governmental interference. The Supreme Court has recognized that certain government conduct "*shocks the conscience*" and violates substantive due process even absent specific constitutional text. Torture and CIDT clearly fall within this category of conduct so severe that it violates substantive due process regardless of whether procedural safeguards are observed.

The intersection of constitutional due process and UNCAT creates mutually reinforcing protections. Where domestic constitutional protections might be interpreted narrowly, UNCAT's absolute prohibition provides interpretive guidance under *Charming Betsy*. Conversely, where treaty implementation faces obstacles, constitutional due process provides an independent basis for relief.

Procedural Due Process Requirements

Procedural due process requires fair procedures before governmental deprivation of life, liberty, or property. UNCAT's procedural obligations—including prompt and impartial investigation of torture allegations, protection of complainants and witnesses, and punishment of perpetrators—harmonize with and elaborate these constitutional requirements.

The combination creates enhanced procedural protections: allegations of torture or CIDT trigger both constitutional due process requirements and UNCAT's specific investigative and remedial obligations. Courts cannot dismiss such allegations without satisfying both constitutional and treaty-based procedural requirements.

2. Doctrinal Integration Framework

2.1 Hierarchical Relationship Among Legal Sources

The enhanced constitutional framework establishes a clear hierarchy of legal obligations:

Tier 1: *Jus cogens* Peremptory Norms

- Absolute prohibition of torture and CIDT
- No derogation permitted under any circumstances
- Override conflicting domestic law and invalid treaty reservations

Tier 2: *Constitutional Guarantees and Treaty Obligations*

- Article VI supremacy of treaties as supreme law
- Fifth and Fourteenth Amendment due process protections
- UNCAT obligations as ratified treaty law

Tier 3: *Implementing Legislation and Judicial Interpretation*

- Federal statutes implementing constitutional and treaty obligations
- State laws consistent with federal supremacy
- Judicial interpretations harmonizing domestic and international law under *Charming Betsy*

Tier 4: *Procedural Rules and Administrative Practices*

- Court rules and administrative procedures
- Must conform to higher-tier obligations
- Cannot defeat substantive protections through procedural barriers

2.2 Synthesis of Enforcement Mechanisms

The integration of the five doctrines creates multiple, reinforcing enforcement mechanisms:

- Article VI Supremacy establishes the binding character of treaty obligations on all state and federal judges. No court may ignore or dismiss UNCAT obligations as non-binding.
- *Jus cogens* Principles provide the substantive foundation, establishing torture prohibition as non-derogable law superior to conflicting domestic provisions.
- *Charming Betsy* Interpretation requires courts to construe all domestic law consistently with UNCAT obligations, eliminating procedural or jurisdictional barriers that would effectively nullify treaty protections.
- *Ex Parte Young* Relief provides the remedial mechanism, enabling federal courts to enjoin state officials from ongoing treaty violations despite sovereign immunity claims.
- Constitutional Due Process supplies independent constitutional grounds for relief and procedural requirements that reinforce UNCAT obligations.

2.3 Judicial Obligations Under Integrated Framework

Under this integrated framework, federal and state courts have specific, non-discretionary obligations:

- Recognition Obligation: Courts must recognize UNCAT as binding supreme law under Article VI, subject to *Charming Betsy* interpretive requirements.

- Investigation Obligation: Allegations of torture or CIDT trigger UNCAT's mandatory investigation requirements, which cannot be avoided through abstention doctrines or procedural dismissals.
- Protection Obligation: Courts must protect complainants and witnesses from retaliation, consistent with both due process requirements and UNCAT Article 13.
- Remedy Obligation: Effective remedies must be provided, including prospective relief available under *Ex parte Young* and rehabilitative measures required by UNCAT.
- Prevention Obligation: Courts must ensure their own procedures and the conduct they oversee do not constitute torture or CIDT, consistent with both constitutional guarantees and UNCAT's prevention mandate.

3. Practical Application Guidelines

3.1 Pleading Standards for Judicial Torture Claims

Essential Elements

Claims alleging judicial torture or CIDT should include:

- Constitutional Basis: Substantive and procedural due process violations under Fifth and Fourteenth Amendments
- Treaty Basis: Specific UNCAT articles violated (typically Articles 1, 12-14, 16)
- *Jus cogens* Foundation: Allegation that conduct violates peremptory norms of international law
- Official Action: State action under color of law satisfying § 1983 requirements
- Prospective Relief: Specific injunctive relief sought under *Ex parte Young*

Jurisdictional Foundations

Multiple jurisdictional bases support judicial torture claims:

- Federal Question Jurisdiction (28 U.S.C. § 1331): Constitutional and federal treaty law claims
- Civil Rights Jurisdiction (28 U.S.C. § 1343): Constitutional deprivations under color of state law
- Supremacy Clause Jurisdiction: Implied right of action under *Ex parte Young* for treaty violations

3.2 Overcoming Procedural Barriers

Abstention Doctrines

Traditional abstention doctrines—including *Pullman*⁹, *Burford*¹⁰, and *Colorado River*¹¹ abstention—cannot defeat constitutional and treaty-based claims against ongoing violations. The Supreme Court has emphasized that abstention is inappropriate where federal constitutional rights are threatened, and this principle applies with equal force to treaty-protected rights that constitute supreme federal law.

⁹ *Texas v. Pullman Co.*, 312 U.S. 496 (1941)

¹⁰ *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943)

¹¹ *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976)

Younger Abstention: Does not apply to ongoing civil rights violations or where state proceedings are brought in bad faith or to harass federal rights claimants. Systematic torture or CIDT claims typically satisfy the bad faith exception.

*Rooker-Feldman*¹² Doctrine: Does not bar challenges to ongoing unconstitutional practices or systemic violations, only specific state court judgments. Judicial torture claims typically challenge patterns of conduct rather than specific judicial decisions.

Sovereign Immunity

- Eleventh Amendment: *Ex parte Young* provides established exception for prospective relief against ongoing constitutional and federal law violations.
- Legislative Immunity: Does not protect judicial conduct that violates clearly established constitutional rights or federal law.
- Judicial Immunity: Provides protection only for judicial conduct in the clear absence of jurisdiction. Systematic torture or CIDT exceeds jurisdictional authority and loses immunity protection.

3.3 Available Relief and Remedies

Injunctive Relief

Federal courts may issue prospective injunctions requiring:

- Independent Investigation: Establishment of independent mechanisms to investigate torture and CIDT allegations, consistent with UNCAT Article 12
- Procedural Reforms: Implementation of procedures ensuring fair hearings and protection of vulnerable populations
- Training and Education: Judicial and staff education on constitutional and treaty obligations
- Monitoring and Compliance: Ongoing judicial supervision to ensure compliance with constitutional and treaty obligations

Declaratory Relief

Courts may issue declaratory judgments:

- Declaring specific practices violative of constitutional and treaty obligations
- Clarifying the scope of UNCAT obligations as binding domestic law
- Establishing standards for future conduct

Individual Protective Relief

Consistent with due process and UNCAT requirements:

- Protection orders preventing retaliation against complainants and witnesses
- Transfer of cases from judges engaging in violative conduct
- Independent investigation and oversight

¹² *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923)

4. Case Study Applications

4.1 Analysis of Systemic Judicial Practices

The framework applies to various forms of judicial conduct that may constitute torture or CIDT:

- **Systematic Family Separation:** Repeated, coercive separation of children from parents without due process may constitute CIDT where intended to inflict severe mental suffering. Under the framework, such practices would violate substantive due process, UNCAT Articles 1 and 16, and *jus cogens* norms.
- **Discriminatory Treatment of Vulnerable Populations:** Systematic bias against disabled, indigent, or pro se litigants that results in denial of fundamental rights may constitute CIDT. The framework requires courts to provide equal access and reasonable accommodations consistent with both constitutional and treaty obligations.
- **Denial of Independent Investigation:** Refusal to investigate credible allegations of torture or CIDT violates UNCAT Article 12 and procedural due process. Under *Ex parte Young*, federal courts may compel such investigations despite state court resistance.

4.2 Application to the Betts Case

The case of *Betts v. North Carolina*, referenced in in a complaint filed with the IAJ on August 4, 2025 by Amy Betts of North Carolina, illustrates the framework's practical application. Ms. Betts, an indigent disabled mother, alleged repeated arrests and forced separations from her child under a custody order she claimed was void for want of jurisdiction and judicial violation of her rights.

Under the enhanced constitutional framework:

- Article VI Supremacy requires federal courts to consider UNCAT obligations rather than dismissing the case as frivolous
- *Jus cogens* Analysis demands investigation of systematic family separation that may constitute CIDT
- Charming Betsy Interpretation prohibits procedural dismissals that effectively nullify treaty protections
- *Ex Parte Young* Relief enables federal injunctive relief against ongoing state violations
- Due Process Integration provides independent constitutional grounds for relief
- Constitutional Crisis and Federal Response

5. Requirement of federal jurisdiction, relief and remedy

5.1 Systematic Treaty Violation as Constitutional Crisis

When courts systematically refuse to recognize or enforce UNCAT obligations, they create a constitutional crisis under Article VI. The Supremacy Clause does not permit judicial nullification of treaty law, and patterns of systematic non-compliance undermine both constitutional structure and international legal obligations.

5.2 Federal Enforcement Authority

Federal courts possess inherent authority to enforce constitutional supremacy through:

- Mandamus Relief: Compelling state officials to comply with federal law
- Injunctive Relief: Preventing ongoing violations of constitutional and treaty obligations
- Supervisory Authority: Ongoing oversight of compliance with federal mandates
- Criminal Referrals: Referring systematic violations for potential prosecution

6. Implementation Strategy

6.1 Immediate Implementation Steps

- Pattern Documentation: Systematic documentation of judicial torture practices across jurisdictions
- Test Case Development: Strategic litigation establishing precedential authority
- Federal Court Education: Judicial education on constitutional and treaty obligations
- Professional Training: Legal profession training on human rights litigation
- International Coordination: Cooperation with UN bodies and international monitoring

6.2 Long-term Institutional Reform

- Independent Investigation Bodies: Establishment of permanent investigative mechanisms
- Judicial Ethics Reform: Integration of human rights obligations into judicial codes
- Legislative Implementation: Congressional action to clarify and enforce treaty obligations
- International Oversight: Enhanced cooperation with international monitoring bodies
- Civil Society Engagement: Support for NGO monitoring and advocacy

7. Conclusion

The enhanced constitutional framework demonstrates that existing U.S. constitutional and treaty law provides robust authority for addressing judicial torture and CIDT. The integration of Article VI supremacy, *jus cogens* norms, *Charming Betsy* interpretation, *Ex parte Young* relief, and constitutional Due Process creates a comprehensive legal framework that obligates courts to recognize, investigate, and remedy torture violations.

This framework eliminates traditional barriers to accountability by establishing that:

- Treaty obligations constitute supreme federal law binding all judges
- *Jus cogens* norms override conflicting domestic law
- Courts must interpret law consistently with treaty obligations
- Federal remedial authority extends to state judicial misconduct
- Constitutional due process reinforces international legal protections

The framework provides immediate, practical pathways for reform through existing legal mechanisms while establishing the foundation for broader institutional transformation. Implementation requires coordinated efforts across federal and state jurisdictions, supported by international cooperation and civil society engagement.

IAJ Document Version Control Log

Document ID: IAJ-LRV-20250903-003-PUB
Initial Release Date: 2025-09-03

Version History

Version	Date	Author(s)	Summary of Changes
v1.0	2025-09-03	CH_AI	Initial release

Classification: LRV (Review of Law)
Access Level: Public Release

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Case: 25cv341



AMY BETTS, individually and on behalf of all others similarly situated,
Plaintiffs,

v.

STEPHEN BRETT ARMSTRONG,

LEEANNE QUATTRUCCI,

JUDGE MELINDA CROUCH,

LYNDSAY RICHARDSON, COURT COORDINATOR

STATE ACTORS OF NORTH CAROLINA, AND JOHN DOES 1-10,
Defendants.

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, DAMAGES,
AND VIOLATIONS OF CIVIL RIGHTS UNDER 42 U.S.C. §§ 1983, 1985, 1986; AMERICANS
WITH DISABILITIES ACT (ADA); VIOLENCE AGAINST WOMEN ACT (VAWA)
DEMAND FOR JURY TRIAL**

I. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), § 1343 (civil rights), and supplemental jurisdiction under § 1367. Venue is proper under 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims occurred in this District.

II. PARTIES

Plaintiff AMY BETTS is a natural parent and citizen of North Carolina. She asserts violations of her constitutional and statutory rights in both personal and representative capacities.

Defendants include:

- STEPHEN BRETT ARMSTRONG: private actor who participated jointly with state officials;
- LEEANN QUATTRUCCI: attorney acting under color of law;
- JUDGE MELINDA CROUCH: judicial officer alleged to have acted in excess of jurisdiction;
- LYNDSAY RICHARDSON: court coordinator who obstructed access to civil court filing;
- STATE ACTORS: employees and contractors of the North Carolina judiciary;

- JOHN DOES 1–10: unidentified individuals who aided in or failed to prevent violations of Plaintiff's rights.

III. FEDERAL QUESTIONS PRESENTED

1. Whether state court personnel may misclassify a civil rights filing as a family law matter to evade federal review, without violating the First and Fourteenth Amendments.
2. Whether enforcement of a custody order issued without jurisdiction, service, or notice constitutes a continuing due process violation.
3. Whether court administrators and coordinators are entitled to judicial immunity for administrative docket management and case reassignment acts.
4. Whether the use of a void custody order to justify arrest, parental separation, and denial of court access violates established constitutional rights under § 1983, § 1985, and § 1986.

IV. FACTUAL ALLEGATIONS

1. On June 4, 2014, New Hanover County District Court entered a custody order under Case No. 13CVD2849. At the time, Plaintiff and her child did not reside in New Hanover County.
2. Plaintiff was never lawfully served and/or did not make a general appearance, nor did she receive notice of or attend any hearing. The custody order was entered ex parte without jurisdiction or due process.
3. The 2014 order is void ab initio under *Pennoyer v. Neff*, 95 U.S. 714 (1878), *Windsor v. McVeigh*, 93 U.S. 274 (1876), and *Burns v. Windsor Ins. Co.*, 509 S.E.2d 451 (N.C. Ct. App. 1998).
4. In April 2025, Plaintiff e-filed a civil action in New Hanover County seeking declaratory relief, asserting constitutional violations, and demanding a jury trial.
5. Despite the filing being a new civil matter, the clerk returned it for Family Court Office review. Court coordinator Lyndsay Richardson subsequently misclassified the complaint as a custody dispute, labeled Plaintiff a "defendant," appointed counsel, and scheduled hearings.
6. These actions constitute administrative obstruction and retaliation. They violated Plaintiff's right to access court under *Boddie v. Connecticut*, 401 U.S. 371 (1971), and procedural due process under *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).
7. The original custody order has been used repeatedly to justify arrest and interfere with Plaintiff's parental rights. This includes an extrajudicial seizure of her child.
8. Defendants acted jointly, knowingly, and with retaliatory purpose. Judicial immunity does not apply. See *Forrester v. White*, 484 U.S. 219 (1988); *Cleavinger v. Saxner*, 474 U.S. 193 (1985).
9. In *Williams v. Reed*, 598 U.S. ____ (2025), the U.S. Supreme Court held that misuse of void court orders and administrative obstruction of constitutional filings are actionable under § 1983 and not barred by judicial immunity or abstention.

V. PREEMPTION OF IMMUNITY AND ABSTENTION

1. Plaintiff's claims do not seek appellate review of a state decision and are thus not barred by the Rooker-Feldman doctrine. See *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005); *Great W. Mining*, 615 F.3d 159.
2. Judicial immunity is not available to state officers performing administrative functions. See *Forrester*, 484 U.S. 219.
3. Younger abstention does not apply to void orders, bad-faith prosecutions, or systemic bias. See *Mitchum v. Foster*, 407 U.S. 225 (1972).

VI. CAUSES OF ACTION

Count I — Violation of Due Process and Equal Protection (42 U.S.C. § 1983) Count II — Denial of Access to Court (42 U.S.C. § 1983) Count III — Civil Rights Conspiracy (42 U.S.C. § 1985) Count IV — Failure to Prevent Civil Rights Violations (42 U.S.C. § 1986) Count V — Disability Discrimination (Title II, ADA) Count VI — Gender-Based Discrimination and Retaliation (VAWA)

VII. RELIEF REQUESTED

Plaintiff respectfully requests:

1. A declaration that the June 4, 2014 custody order is void ab initio.
2. Injunctive relief prohibiting enforcement of the void order.
3. Injunctive relief prohibiting court personnel from misrouting civil filings.
4. Reassignment of all related state proceedings to neutral officers.
5. Compensatory and punitive damages.
6. Expedited discovery limited to jurisdiction, classification, and docket actions.
7. A jury trial on all issues so triable.
8. All other relief this Court deems just and proper.

Respectfully submitted,
Amy Betts
Plaintiff, Pro Se/Pro Per
litigant.betts.amy@gmail.com

313 S. East Ave
Kannapolis NC 28083
704-906-2473 (A)

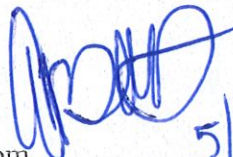
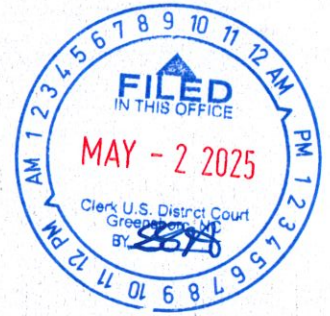

5/1/25

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Case: 25-cv-341



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

AMY BETTS,
Plaintiff,

v.

STEPHEN BRETT ARMSTRONG, et al.,
Defendants.

PLAINTIFF'S BRIEF IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I. INTRODUCTION

Plaintiff Amy Betts respectfully submits this brief in support of her Emergency Motion for a Temporary Restraining Order ("TRO") and Preliminary Injunction pursuant to **Fed. R. Civ. P. 65**. This action arises from state actors' unconstitutional enforcement of a **void custody order** issued without jurisdiction, service, or notice—resulting in the **extrajudicial seizure of Plaintiff's child**, denial of access to court, and retaliatory misclassification of Plaintiff's civil rights filings.

Immediate injunctive relief is required to prevent further irreparable constitutional harm and to preserve the status quo pending adjudication on the merits.

II. LEGAL STANDARD

To obtain a temporary restraining order or preliminary injunction, a plaintiff must show:

1. **Likelihood of success on the merits;**
2. **Irreparable harm** in the absence of preliminary relief;
3. That the **balance of equities** tips in the plaintiff's favor; and
4. That an injunction is in the **public interest**.

Winter v. NRDC, 555 U.S. 7, 20 (2008); *Real Truth About Obama, Inc. v. FEC*, 575 F.3d 342, 346 (4th Cir. 2009).

III. ARGUMENT

A. Plaintiff Is Likely to Succeed on the Merits

The 2014 custody order challenged here is **void ab initio** due to the **absence of jurisdiction, service, and/or notice**, in direct violation of the **Fourteenth Amendment's Due Process Clause**. See *Pennoyer v. Neff*, 95 U.S. 714 (1878); *Burns v. Windsor Ins. Co.*, 509 S.E.2d 451 (N.C. Ct. App. 1998).

Further, court officials' obstruction of Plaintiff's access to the courts and misclassification of her civil rights filings as "custody matters" violates established law. *Boddie v. Connecticut*, 401 U.S. 371 (1971) (states may not deny access to courts for fundamental rights). Misuse of procedural labels to avoid federal review violates **42 U.S.C. § 1983, § 1985**, and the **Americans with Disabilities Act (ADA)**.

Defendants' actions are not protected by judicial immunity or abstention doctrines because they involve **administrative misconduct**, not core judicial acts. See *Forrester v. White*, 484 U.S. 219, 229 (1988).

B. Plaintiff Faces Irreparable Harm

Plaintiff has been arrested, deprived of custody of her child, and denied a fair opportunity to present her civil claims—all based on a **void judgment**. The ongoing enforcement of that order constitutes **ongoing constitutional injury**, not a past wrong. See *Ex parte Young*, 209 U.S. 123 (1908); *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).

This is not speculative injury—it is an **active denial of fundamental rights** including parental liberty, access to court, and due process under the First, Fifth, and Fourteenth Amendments.

C. The Balance of Equities Strongly Favors Plaintiff

Defendants suffer **no legally protected harm** by being prohibited from enforcing an unlawful order. The balance of harms decisively favors the Plaintiff, whose rights to liberty, parental custody, and court access are at immediate risk.

D. The Public Interest Supports an Injunction

The public has a strong interest in protecting constitutional rights, including procedural due process and access to impartial courts. See *Turner v. Rogers*, 564 U.S. 431 (2011); *Williams v. Reed*, 598 U.S. ____ (2025).

Preventing government actors from using void judgments and misclassifying constitutional complaints as family law matters is of utmost public concern.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court:

1. **Issue a Temporary Restraining Order** enjoining enforcement of the June 4, 2014 custody order and any related proceedings;
2. **Prohibit misclassification** of Plaintiff's filings and administrative manipulation of court access;
3. **Schedule a prompt hearing** on the Preliminary Injunction; and

4. **Authorize limited expedited discovery** to resolve threshold constitutional issues.

Respectfully submitted,

/s/ **Amy Betts**

Amy Betts

Pro Se/Pro Per Plaintiff

litigant.betts.amy@gmail.com

313 S East Ave. Kannapolis, NC 28083

Date: 5/1/2025

Handwritten signature of Amy Betts and the date 5/1/2025.

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Case: 25-cv-341

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

AMY BETTS,
Plaintiff,

v.

STEPHEN BRETT ARMSTRONG, et al.,
Defendants.



**PLAINTIFF'S NOTICE OF SUPPLEMENTAL EVIDENCE IN SUPPORT OF
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

Pursuant to this Court's inherent authority to consider relevant evidence in support of emergency injunctive relief, Plaintiff **Amy Betts** respectfully submits the following **supplemental documentation** confirming the misclassification and administrative obstruction alleged in her Verified Complaint and Emergency Motion for Temporary Restraining Order (ECF No. ____).

I. PURPOSE OF THIS NOTICE

This Notice provides direct written admissions from **North Carolina state court officials** that:

- Plaintiff's filing was submitted as a **new civil district court case**, not as a custody matter;
- The **family court coordinator disclaimed all authority** over the filing;
- Despite this, court actors previously rerouted or mislabeled the filing as a "family court matter," as alleged in the Verified Complaint.

These admissions provide independent support for Plaintiff's claims under *Boddie v. Connecticut*, 401 U.S. 371 (1971), and *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950), that court personnel obstructed access to a functioning civil court process and denied Plaintiff's constitutional rights under color of state law.

II. SUPPLEMENTAL EVIDENCE

A. Exhibit F – Email from Assistant Clerk Brandt Kaczynski

On May 1, 2025, Assistant Clerk Kaczynski confirmed that Plaintiff's case was submitted to **civil district court**, and not family court, and advised on procedures for indigency if proceeding within that separate jurisdiction. This email further confirms the **non-family-law nature** of the filing.

B. Exhibit G – Email from Court Coordinator Patricia "Patty" Cherigo

Also on May 1, 2025, Ms. Cherigo—coordinator for New Hanover County Family Court—explicitly disclaimed authority over Plaintiff's case, stating she **"will be unable to provide further assistance since [her] role is focused on family court matters"** and confirming that if Plaintiff proceeds in **civil court**, she must file a new complaint (which Plaintiff already had).

III. RELEVANCE TO TRO REQUEST

These written communications are **directly relevant** to Plaintiff's pending Emergency Motion for TRO because:

- They confirm **Plaintiff attempted to file a civil case**, and the state's subsequent misclassification is **not theoretical**, but ongoing;
 - They show a **systemic breakdown in court access** and refusal to assign or docket Plaintiff's civil complaint in accordance with law;
 - They support Plaintiff's argument that state court actors are enforcing void orders through procedural misconduct, in violation of **42 U.S.C. § 1983** and the **Fourteenth Amendment**.
-

IV. CONCLUSION

Plaintiff respectfully asks the Court to consider these additional exhibits in evaluating the pending Emergency Motion for TRO. These emails further confirm that state court actors are impeding Plaintiff's access to a valid judicial forum, in clear violation of binding constitutional precedent.

Respectfully submitted,

/s/ Amy Betts

Amy Betts

Pro Se Plaintiff

313 S East Ave

Kannapolis, NC 28083

litigant.betts.amy@gmail.com

Date: May 1, 2025

Attachments:



- **Exhibit F** – Email from Brandt Kaczynski (Assistant Clerk)
- **Exhibit G** – Email from Patricia Cherigo (Court Coordinator)

EXHIBIT F

Indigent documentation

Kaczynski, Brandt G. <brandt.g.kaczynski@nccourts.org>
To: "litigant.betts.amy@gmail.com" <litigant.betts.amy@gmail.com>

Thu, May 1, 2025 at 11:40 AM

Amy,

I have been notified by our family court office of your intent to file a new case in civil district court. I also saw that you noted that you have indigent documentation on record with our office. I wanted to let you know that if you intend to file your new case as indigent, you will need to file a request for indigency with your filing. I will include the form below. Further, if you DO receive food stamps, you may check the appropriate box. If you DO NOT receive food stamps, you will need to fill out the attached affidavit of indigency as well.

I have attached both forms. Keep in mind that this form is intended to be sworn, and must be notarized if you are e-filing, as we cannot swear you to the form without you here in person. Both the request for indigency and the affidavit of indigency must be notarized if you intend to file them.

Please let me know if you have any further questions.

**Brandt Kaczynski**Assistant Clerk of Superior Court
New Hanover County**North Carolina Judicial Branch**

O 910-772-6603

Justice for allwww.NCcourts.gov

E-mail correspondence to and from this address may be subject to the North Carolina public records laws and if so, may be disclosed.

2 attachments

EXHIBIT G



Amy Betts <illegent.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Cherigo, Patricia M. <patricia.m.cherigo2@nccourts.org>
To: Amy Betts <illegent.betts.amy@gmail.com>

Thu, May 1, 2025 at 8:37 AM

Ms. Betts,

I hope this message finds you well. I wanted to clarify that if you are not proceeding with your pleadings in the family court case, 13cvd2848, I will be unable to provide further assistance since my role is specifically focused on family court matters.

If you intend to file your pleading in civil district court instead, please be aware that you will need to start a new complaint. I recommend reaching out to the clerk's office directly at 910-772-7115. They will be able to guide you on the correct filing procedures to ensure that your documents are accepted and not rejected. Unfortunately, I do not have access to the civil court portal and therefore cannot give you specific guidance on the civil district matter.

However, if you would like to pursue this issue in family court or have any questions, please do not hesitate to contact me. I am here to help you navigate that process.

Best regards,



Patricia "Patty" Cherigo

Court Coordinator
Sixth Judicial District (New Hanover/Pender Counties)

North Carolina Judicial Branch

O 910-772-7115
F 910-772-6600

Justice for all

www.NCcourts.gov



Please be advised that the courthouse closes for lunch between the hours of 12:45 - 1:45 pm

***I am pleased to announce that NH County has implemented electronic document filing. This new system allows you to track all pleadings, orders, and hearings online. To access the system, please visit Smart Search - eCourts Portal. If you would like to file pleadings, you can do so at the eFile NC - Landing Page.

If you need assistance navigating the site, please don't hesitate to contact the clerk's office at 910-772-6600 or email them at scourts@nccourts.org.



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Cherigo, Patricia M. <patricia.m.cherigo2@nccourts.org>
To: Amy Betts <litigant.betts.amy@gmail.com>

Thu, May 1, 2025 at 8:37 AM

Ms. Betts,

I hope this message finds you well. I wanted to clarify that if you are not proceeding with your pleadings in the family court case, 13cvd2848, I will be unable to provide further assistance since my role is specifically focused on family court matters.

If you intend to file your pleading in civil district court instead, please be aware that you will need to start a new complaint. I recommend reaching out to the clerk's office directly at 910-772-7115. They will be able to guide you on the correct filing procedures to ensure that your documents are accepted and not rejected. Unfortunately, I do not have access to the civil court portal and therefore cannot give you specific guidance on the civil district matter.

However, if you would like to pursue this issue in family court or have any questions, please do not hesitate to contact me. I am here to help you navigate that process.

Best regards,

[Quoted text hidden]
[Quoted text hidden]

 **Affidavit of Indigency0001.pdf**
29K

 **Petition to Proceed as an Indigent0001.pdf**
75K

EXHIBIT 4

EXHIBITS

A - C



Amy Betts <litigant.betts.amy@gmail.com>

Filing Submitted for Case: 2592502; ; Envelope Number: 2592502

1 message

no-reply@efilingmail.tylertech.cloud <no-reply@efilingmail.tylertech.cloud>
To: litigant.betts.amy@gmail.com

Wed, Apr 30, 2025 at 11:18 AM

Filing Submitted

Envelope Number: 2592502

Your filing below has been submitted to the Clerk's office located in New Hanover District Court, NC for review. Please allow for sufficient processing time based on the following filings:

- To the Clerk's Office - up to one (1) business day;
- For LE to the AOC Expunction Admin (Law Enforcement Use Only) up to ten (10) business days;

Filing Details	
Court	New Hanover District Court
Date/Time Submitted:	4/30/2025 11:17 AM EST
Filing Type:	Complaint
Activity Requested:	EFile
Filed By:	Amy Betts

Fee Details	
Waiver Selected	
Case Fees \$0.00	
Complaint \$0.00	
Grand Total \$0.00	
Total: \$0.00	

Document Details	
Lead File:	Void Judgment Plaintiff Betts.pdf
Lead File Page Count:	25

For Technical Assistance	
Contact Tyler Technologies	
Please do not reply to this email. It was generated automatically by no-reply@efilingmail.tylertech.cloud.	



AB ▾

Details - Envelope # 2592502

Envelope

Envelope ID

2592502

Submitted by

Amy Betts

Submitted date

04/30/2025 11:17 AM

Username

litigant.betts.amy@gmail.com

Case Information

Court Location

New Hanover District Court

Case Type

Miscellaneous Civil Judgments ("M" Filing)

Case Category

Civil

Parties

Party Type

Party Name

Lead Attorney

Plaintiff

Amy Betts

Defendant

Stephen Brett Armstrong

Filings

Filing Code

Complaint

Filing Type

eFile Only

Filing Description

Complaint ??? Civil Action for Declaratory Relief and Jury Trial

 Support

Party Type	Party Name	Service Contacts
Plaintiff	Amy Betts	 0
Defendant	Stephen Brett Armstrong	 0
Other Service Contacts		 0

Fees

Payment account

waiver

Party responsible for envelope fees

Amy Betts

Order ID

Transaction Response

Transaction Amount

\$0.00

Transaction ID

Total \$0.00
Waiver Selected

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT

Case _____

Amy Betts
Plaintiff,

VOID JUDGMENT
TRIAL BY JURY DEMANDED

v.

Stephen Brett Armstrong
Defendant,

I, Amy Betts, am over the age of 18 and have personal knowledge of the facts stated herein and, if called upon to testify, could and would truthfully testify to the following:

BRIEF AND SUPPORT

The purported order issued in New Hanover County District Court Division, stamped June 4, 2014, Number 13CVD2849 is void ab initio — a false document created without lawful jurisdiction, valid evidence, or authority.

- **Lack of Jurisdiction:** The minor child was never domiciled in New Hanover County prior to the unlawful "order." Under North Carolina General Statutes § 1-75.1 et seq., the court lacked subject matter and personal jurisdiction.
- **Lack of Evidence:** No facts appear on record supported by admissible evidence based on personal knowledge (Federal Rules of Evidence Rule 602; NC Rules of Evidence Rule 602). No lawful oath or affirmation was secured (Rule 603).
- **Due Process Violations:** A hearing was conducted without lawful and proper notice to me, depriving me of the opportunity to be heard, to confront witnesses, or to defend custody of my child — a fundamental right protected by the 6th, 7th, and 14th Amendments of the United States Constitution, and Article I, Sections 19 and 25 of the North Carolina Constitution.
- **Right to Jury Trial:** No jury trial was provided nor knowingly, voluntarily, or intelligently waived.
- **6th Amendment Violation:** Right to confront witnesses and defend in a fair trial was denied.
- **7th Amendment Violation:** Right to trial by jury in a civil case exceeding twenty dollars was denied.
- **14th Amendment Violation:** Due process and equal protection under the law were denied.
- **North Carolina Constitution, Article I, Section 19:** "No person shall be deprived of life, liberty, or property but by the law of the land."

- **North Carolina Constitution, Article I, Section 25:** Preservation of the right to a jury trial.
 - **Standing & Jurisdiction Defects:** No injured party with standing was before the court. No lawful service, consent, or waiver occurred.
 - **Void Order Doctrine:** Where jurisdiction is lacking, all orders are void and a legal nullity. (See *Burns v. Windsor Ins. Co.*, 509 S.E.2d 451 (N.C. Ct. App. 1998)).
-

ARGUMENT AND AUTHORITY

Statements of counsel, their briefs, and unsupported contentions are not sufficient for the purpose of granting a judgment. (See *Trinsey v. Pagliari*, D.C.Pa.1964, 229 F.Supp.647). Material facts must be supported by admissible affidavits or other evidence.

Where there are no lawful depositions, admissions, answers to interrogatories, affidavits, or competent evidence, a motion for judgment cannot lawfully be granted.

Furthermore:

- No injured party with standing was lawfully before the court.
- No lawful service of process or voluntary appearance conferred jurisdiction.
- No jury rendered a verdict depriving Plaintiff of parental rights as required under the North Carolina and United States Constitutions.

Where jurisdiction is lacking, all orders are void ab initio, not merely voidable. (See *Burns v. Windsor Ins. Co.*, 509 S.E.2d 451 (N.C. Ct. App. 1998)).

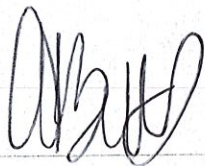
Defendant and others acted willfully, knowingly, maliciously, and with deliberate indifference to Plaintiff's constitutionally protected rights, causing substantial emotional, psychological, reputational, and/or parental harm.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. A Declaration that the purported custody order entered on or about June 4, 2014, in New Hanover County District Court Case Number 13CVD2849 is VOID ab initio and unenforceable;
2. A Declaration that all subsequent orders based on or arising from the void custody order are similarly VOID and unenforceable;
3. Restoration of full legal and physical custody of Plaintiff's minor child to Plaintiff;
4. An immediate Jury Trial to be scheduled to address all factual disputes pursuant to the 7th Amendment and Article I, Section 25 of the North Carolina Constitution;
5. Any other relief the Court deems just and proper.

Respectfully Submitted,



Amy Betts

313 S East Ave.

Kannapolis, NC 28083

litigant.betts.amy@gmail.com

DATE:

4/24/25

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT

Case _____

Amy Betts,
Plaintiff

DEMAND FOR TRIAL BY JURY

v.

Stephen Brett Armstrong,
Defendant

TO THE COURT AND ALL PARTIES:

Pursuant to the 6th and 7th Amendments to the United States Constitution, Article I, Section 25 of the North Carolina Constitution, and Rule 38 of the North Carolina Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

The right to a trial by jury in controversies affecting fundamental rights, custody, liberty, and property is sacred and preserved under both the United States and North Carolina Constitutions.

Plaintiff has not waived, and does not waive, the right to a jury trial.

Respectfully submitted,

Amy Betts



STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT

Case _____

Amy Betts
Plaintiff,

**NOTICE OF VOID JUDGMENT AND
DEMAND FOR JURY TRIAL**

v.

Stephen Brett Armstrong
Defendant,

Plaintiff Amy Betts respectfully provides Notice to the Court and to all parties of record that the purported "Order" entered June 4, 2014 under New Hanover County District Court Division Number 13CVD2849 is VOID ab initio due to lack of jurisdiction, lack of proper service, lack of admissible evidence, denial of due process, and/or denial of right to jury trial. Accordingly, Plaintiff demands immediate adjudication on the following relief:

1. **Declaration that the purported Order is VOID;**
2. **Restoration of Full Physical and Legal Custody** of the minor child;
3. **Immediate Jury Trial** on all factual issues as secured by the 7th Amendment and Article I, Section 25 of the North Carolina Constitution;
4. **Sanctions** or other relief against any party who knowingly submitted false documents or testimony.

This notice and demand are filed pursuant to Plaintiff's constitutional rights under the United States Constitution and the North Carolina Constitution.

Respectfully Submitted,



Amy Betts
litigant.betts.amy@gmail.com

DATE: _____

4/29/25

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT

Case _____

Amy Betts
Plaintiff,

**STATEMENT OF ELEMENTS
OF JURISDICTION**

v.

Stephen Brett Armstrong
Defendant,

1. STANDING:

No verified injured party was presented with firsthand knowledge as required. (See *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992)). Therefore, standing was lacking.

2. SUBJECT MATTER JURISDICTION:

The court lacked jurisdiction as no valid pleading, verified evidence, or constitutional due process was satisfied. (See *Burns v. Windsor Ins. Co.*, 509 S.E.2d 451).

3. PERSONAL JURISDICTION:

No lawful service of process or voluntary consent occurred. No jurisdiction was conferred over Plaintiff.

4. EVIDENCE:

No admissible evidence based on personal knowledge (Rule 602). No verified affidavits, no sworn testimony.

5. OATH OR AFFIRMATION:

No lawful oath or affirmation was obtained under Rule 603.

6. DUE PROCESS:

No lawful notice or opportunity to be heard was provided. Plaintiff was excluded from critical proceedings.

7. RIGHT TO TRIAL BY JURY:

The right to a civil jury trial was violated under the 7th Amendment and North Carolina Constitution, Article I, Section 25.

CONCLUSION:

Without standing, subject matter jurisdiction, personal jurisdiction, proper evidence, lawful oath, due process, or a jury trial, the court lacked any lawful authority.

Thus, the order is void ab initio.

4/29/25 (J)

entered to
court 7/31/14
MGC

BELMONT COUNTY COURT – NORTHERN DIVISION
400 IMPERIAL PLAZA
BELLAIRE, OHIO 43906

DOCKET & JOURNAL ENTRY

STATE OF OHIO

Case number: 14 CR A 0477
Western Case No.: 14 CR A 0368

vs

Date of Entry: 07/31/14

AMY LYNN BETTS,
DEFENDANT

Written Motion to Dismiss filed by Assistant Prosecutor Kevin Flanagan is sustained. Motion to Nolle Prosequi, by the State of Ohio.

Pc: Defendant
Matthew Chapman
Western court

Prosecutor
Sgt. Randy Stewart

cui

APPROVED:

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

Chris Berhalter

FILED

JUL 31 2014

CLERK OF COURT

CHRIS BERHALTER – JUDGE

NO PERSONAL CHECKS ACCEPTED
ANY FINES, COSTS AND RESTITUTION NOT PAID ON TIME MAY BE
REFERRED TO A COLLECTION AGENCY WHICH WILL RESULT IN AN
ADDED 30%

BELMONT COUNTY NORTHERN DIVISION COURT

STATE OF OHIO

vs.

Case Number: 14 CR A 00477
Western Case No.: 14 CR A 00368

Date of Entry: 10/15/14

SEALING OF RECORD

AMY LYNN BETTS,

TO: Belmont County Sheriff's Office
Martins Ferry Police Department
Bridgeport Police Department
Yorkville Police Department
Richland Township Police Department
Bureau of Criminal Identification
Defendant ✓
Care Logic-Safe Rent
Intellicorp
Court Ventures Experian
C R Perrucci
Genuine Data Services
Prosecutor
Western Division Court

JUDGE CHRISTOPHER BERHALTER

FILED
OCT 15 2014

Social Security Number: 269-88-9815

Date of Birth: 09/20/78

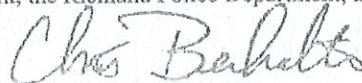
On (06/09/14) one Amy Lynn Betts was arrested on a charge of Interference with Custody.

As of (10/15/14), for good cause shown, the court orders that all records of the arrest involving this case and the prosecution of the defendant in this case be ORDERED SEALED along with all other records.

IT IS FURTHER ORDERED that the police department shall seal and expunge all records of this matter and such records are ordered sealed and not to be released without the permission of this Court.

IT IS FURTHER ORDERED that all records of the Bureau of Criminal Identification and Investigations at London, Ohio be sealed and expunged and that no record of this matter is to be released without further order of this Court.

IT IS FURTHER ORDERED that the Clerk in compliance with ORC Section 2953.53 shall send notice of this ORDER to any public office or agency that the court may be aware of who may have knowledge or record of this case. Said agencies in this matter being the Belmont County Sheriff's Office, the Bridgeport Police Department, the Martins Ferry Police Department, the Yorkville Police Department, the Richland Police Department, and Bureau of Criminal Identification.



JUDGE

I do hereby certify that this is a true and exact copy of the Original Seal Order and that said copy was sent by mail on (10/15/14), to above addressed parties.



Colleen U. Ivan, Deputy Clerk
Belmont County Northern Division Court

NOTICE OF PRO SE RIGHTS

Amy Betts reserves the right to file this 'Notice of Special Pro Se Rights', and reserves the right to supplement and amend accordingly.

Pro se pleadings are always to be construed liberally and expansively, affording them all opportunity in obtaining substance of justice, over technicality of form. Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938); Picking v. Pennsylvania Railroad Co., 151 F.2d 240 (3rd Cir. 1945); Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 596, 30 L.Ed.2d 652 (1972); Cruz v. Beto, 405 U.S. 319, 322, 92 S.Ct. 1079, 1081, 31 L.Ed.2d 263 (1972); Puckett v. Cox, 456 F. 2d 233 (6th Cir. 1972); and, etc., etc., etc., practically *ad infinitum*.

If the court can reasonably read the submissions, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax or sentence construction, or a litigant's unfamiliarity with particular rule requirements. Boag v. MacDougall, 454 U.S. 364, 102 S.Ct. 700, 70 L.Ed.2d 551 (1982); Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (quoting Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)); Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); McDowell v. Delaware State Police, 88 F.3d 188, 189 (3rd Cir. 1996); United States v. Day, 969 F.2d 39, 42 (3rd Cir. 1992); Then v. I.N.S., 58 F.Supp.2d 422, 429 (D.N.J. 1999); and, etc., along with numerous similar rulings.

When interpreting *pro se* papers, this Court is required to use its own common sense to determine what relief that party either desires, or is otherwise entitled to. S.E.C. v. Elliott, 953 F.2d 1560, 1582 (11th Cir. 1992). See also, United States v. Miller, 197 F.3d 644, 648 (3rd Cir. 1999) (court has a special obligation to construe *pro se* litigants' pleadings liberally); Poling v. K. Hovnanian Enterprises, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000); and, etc.

Indeed, the courts will even go to particular pains to **protect** *pro se* litigants against consequences of technical errors if injustice would otherwise result. U.S. v. Sanchez, 88 F.3d 1243 (D.C.Cir. 1996). Moreover, "the court is under a duty to examine the complaint to determine if the allegations provide for relief on **ANY** possible theory." (emphasis added) See, e.g., Bonner v. Circuit Court of St. Louis, 526 F.2d 1331, 1334 (8th Cir. 1975), Bramlet v. Wilson, 495 F.2d 714, 716 (8th Cir. 1974), Thomas W. Garland, Inc. v. City of St. Louis, 596 F.2d 784, 787 (8th Cir. 1979), Bowers v. Hardwick, 478 U.S. 186, 201-02, 106 S.Ct. 2841, 92 L.Ed.2d 140 (1986), Brooks v. Blue Cross & Blue Shield of Fla., Inc., 116 F.3d 1364, 1369 (11th Cir. 1997), O'Boyle v. Jiffy Lube International Inc., 866 F.2d 88 (3rd Cir. 1989), and etc., etc., etc.

4/29/28
Ar

FILED
DATE: April 25, 2025
TIME: 10:44:30 AM
CABARRUS COUNTY
CLERK OF SUPERIOR COURT

STATE OF NORTH CAROLINA BY: M. Black IN THE GENERAL COURT OF JUSTICE
COUNTY OF CABARRUS DISTRICT COURT

Aidileys

AMICUS CURIAE BRIEF
FOR AIDILEYS

Re: Juvenile Proceedings Affecting the Rights of Biological Parents
IN SUPPORT OF BIOLOGICAL FAMILIES AND CONSTITUTIONAL PARENTAL RIGHTS

I. IDENTITY AND INTEREST OF AMICUS CURIAE

Aidileys is a nonprofit, nonpartisan advocacy organization committed to advancing constitutional protections and public accountability within the child welfare and family court systems. While Aidileys does **not provide legal representation**, it supports biological families through public interest research, constitutional education, and advocacy on issues involving due process, ADA rights, and parental liberty.

Aidileys submits this Amicus Curiae Brief not on behalf of any single party, but to assist the Court in evaluating the broader constitutional implications of its decisions and to amplify the experiences of biological families disproportionately harmed by systemic policies. Our participation is rooted in civic advocacy and is protected under the First and Fourteenth Amendments, the Administrative Procedure Act (5 U.S.C. § 553(e)), and applicable public interest doctrines.

II. INTRODUCTION AND CONTEXT

This amicus brief supports biological families whose parental rights have been compromised or terminated without due process, under policies now considered unlawful by Executive Order 14219 (February 25th, 2025, and then his Memorandum, Repealing the unlawful regulations which was issued, April 9th, 2025), recent U.S. Supreme Court precedent, and constitutional protections.

Aidileys urges this Court—and all courts in North Carolina—to recognize the pattern of abuse, lack of judicial oversight, and weaponization of service mandates disproportionately targeting biological mothers, disabled parents, and economically marginalized biological families.

III. LEGAL FRAMEWORK & FEDERAL AUTHORITY

Under **Executive Order 14219**, agencies are directed to repeal all regulations or policies that:

- Lack express Congressional authorization (Major Questions Doctrine, *West Virginia v. EPA*).
- Rely on judicial deference (*Loper Bright*, 2024—Chevron deference is overruled).
- Deprive individuals of a jury trial (*SEC v. Jarkesy*, 2024).
- Impede fundamental liberties including parental rights, religious liberty, ADA protections (*Roman Catholic Diocese v. Cuomo*, *Carson v. Makin*, 2022).
- Pursuant to Rule 27 of the Federal Rules of Civil Procedure, Aidileys and its associates reserve the right to **perpetuate testimony and preserve documentary evidence** relevant to anticipated constitutional claims. This includes whistleblower accounts, agency communications, and court practices that may be subject to review under 42 U.S.C. § 1983.

The filing of this Amicus Curiae brief serves as both a **protective measure and legal preservation notice**, consistent with Rule 27 and applicable judicial standards.

IV. SYSTEMIC CONSTITUTIONAL VIOLATIONS

A. Violation of Due Process and Equal Protection (14th Amendment)

The actions of state agencies, courts, and their appointees—when used to remove children from fit parents without clear and convincing evidence, deny ADA accommodations, or impose arbitrary service mandates—violate the **14th Amendment to the United States Constitution**.

Specifically, affected families are being denied:

- **Procedural Due Process** – by secret hearings, lack of meaningful notice, and coercive reunification plans;
- **Substantive Due Process** – by the infringement of their **fundamental liberty interest** in family integrity (*Troxel v. Granville*, 530 U.S. 57 (2000));
- **Equal Protection** – as families facing poverty, disability, or minority status are disproportionately targeted by “neglect”-based removals and service enforcement.

The Amicus respectfully urges this Court to review the constitutionality of these systems in light of the 14th Amendment, and to prevent the perpetuation of discriminatory or unconstitutional standards.

- Parents across North Carolina have been subjected to **non-evidentiary removals**, unjust “neglect” accusations tied to things such as poverty, and **coercive reunification service plans**. These practices punish hardship rather than address it, criminalizing poverty and disability.

“Neglect” is often defined by housing instability or lack of food—systemic issues that result from government inaction, not parental unfitness.

B. Suppression of Rights Through Gag, Gatekeeper, and No-Contact Orders

Women who challenge abuse—especially biological mothers—have been gagged, silenced, or legally barred from speaking out or defending themselves. This violates:

- **First Amendment** (freedom of speech),
- **Fifth and Fourteenth Amendments** (due process),
- **ADA protections** (disability-related discrimination and procedural exclusions).

Judges and agency actors have issued these orders without oversight, shielded by judicial immunity and bar-controlled governance structures that lack external accountability.

C. Use of Unscientific Compliance Mandates

Reunification is regularly delayed or denied based on:

- Subjective parenting evaluations,
- Unproven therapy classes,
- Rigid compliance with programs not backed by medical or psychological science.

This violates standards set by *Michigan v. EPA* and *Ohio v. EPA*, which prohibit agencies from enforcing standards without scientific justification or clear legal authority.

D. Lack of Jury Trial and Improper Administrative Proceedings

Parental rights—common law rights—are adjudicated in internal family court hearings, without juries, violating the **Seventh Amendment** as affirmed in *SEC v. Jarkesy*. These proceedings also lack Article III court protections.

V. BROADER IMPACT ON MOTHERS, FATHERS, CHILDREN

The family court industry operates as a self-reinforcing profit system, funded by federal grants and state incentives tied to child removals and legal processes:

- **Grants intended for survivors** are misused by unaccountable agencies.
- **Gag and gatekeeper orders silence parents**, especially women, attempting to report abuse.
- **“Non-custodial” parents** face equal harm from false allegations and overreaching court mandates.

From Amy’s arrest for “kidnapping” her own child that had not left her side from birth, to other biological mothers’ separation from their children despite things such as visitation success and no current harm, these type of stories represent a pattern, not an exception.

VI. PROPOSED REFORMS AND RELIEF REQUESTED

In alignment with Executive Order 14219 and recent Supreme Court precedent, Aidileys formally requests this Court to:

1. **Cease enforcement of service mandates** that lack scientific basis, especially when used to delay reunification.
 2. **Invalidate all conditions or court actions** based on now-unconstitutional Chevron-style deference.
 3. **Recognize due process violations** in gag/gatekeeper/no-contact orders and call for immediate review and redress.
 4. **Reject judicial immunity defenses** in matters of civil rights abuse and ADA violations.
 5. **Halt TPRs (Termination of Parental Rights)** pending investigation under these federal standards.
 6. **Establish an independent, survivor-led Judicial Oversight Commission** with full investigatory authority.
 7. **Mandate full transparency**, including public access to family court decisions, complaint records, and agency protocols.
-

VII. CONCLUSION

Aidileys files this brief for every biological parent and child subjected to a family court system that has strayed from its constitutional mandate. The time for **oversight, accountability, and reform** is now. The Constitution demands it. The people demand it. The law now compels it.

LEGAL DISCLAIMER

Aidileys is a nonprofit advocacy organization. We do **not provide legal advice or representation**, nor do we act as attorneys or legal agents for any party. Any submissions, briefs, or notices issued by Aidileys are prepared for educational, constitutional advocacy, and public interest purposes only.

Aidileys encourages individuals to seek qualified legal counsel for case-specific legal needs or court representation. Our efforts are aimed at systemic reform, transparency, and the protection of constitutional rights in accordance with public interest law.

Respectfully submitted,

Aidileys

Dated: April 2025

Presidential Documents

Executive Order 14219 of February 19, 2025

Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. It is the policy of my Administration to focus the executive branch's limited enforcement resources on regulations squarely authorized by constitutional Federal statutes, and to commence the deconstruction of the overbearing and burdensome administrative state. Ending Federal overreach and restoring the constitutional separation of powers is a priority of my Administration.

Sec. 2. Rescinding Unlawful Regulations and Regulations That Undermine the National Interest. (a) Agency heads shall, in coordination with their DOGE Team Leads and the Director of the Office of Management and Budget, initiate a process to review all regulations subject to their sole or joint jurisdiction for consistency with law and Administration policy. Within 60 days of the date of this order, agency heads shall, in consultation with the Attorney General as appropriate, identify the following classes of regulations:

- (i) unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution;
- (ii) regulations that are based on unlawful delegations of legislative power;
- (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition;
- (iv) regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
- (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits;
- (vi) regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and
- (vii) regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.

(b) In conducting the review required by subsection (a) of this section, agencies shall prioritize review of those rules that satisfy the definition of "significant regulatory action" in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), as amended.

(c) Within 60 days of the date of this order, agency heads shall provide to the Administrator of the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget a list of all regulations identified by class as listed in subsection (a) of this section.

(d) The Administrator of OIRA shall consult with agency heads to develop a Unified Regulatory Agenda that seeks to rescind or modify these regulations, as appropriate.

Sec. 3. Enforcement Discretion to Ensure Lawful Governance.

(a) Subject to their paramount obligation to discharge their legal obligations, protect public safety, and advance the national interest, agencies shall preserve their limited enforcement resources by generally de-prioritizing actions to enforce regulations that are based on anything other than the best reading of a statute and de-prioritizing actions to enforce regulations that go beyond the powers vested in the Federal Government by the Constitution.

(b) Agency heads shall determine whether ongoing enforcement of any regulations identified in their regulatory review is compliant with law and Administration policy. To preserve resources and ensure lawful enforcement, agency heads, in consultation with the Director of the Office of Management and Budget, shall, on a case-by-case basis and as appropriate and consistent with applicable law, then direct the termination of all such enforcement proceedings that do not comply with the Constitution, laws, or Administration policy.

Sec. 4. Promulgation of New Regulations. Agencies shall continue to follow the processes set out in Executive Order 12866 for submitting regulations for review by OIRA. Additionally, agency heads shall consult with their DOGE Team Leads and the Administrator of OIRA on potential new regulations as soon as practicable. In evaluating potential new regulations, agency heads, DOGE Team Leads, and the Administrator of OIRA shall consider, in addition to the factors set out in Executive Order 12866, the factors set out in section 2(a) of this order.

Sec. 5. Implementation. The Director of the Office of Management and Budget shall issue implementation guidance, as appropriate.

Sec. 6. Definitions. (a) "Agency" has the meaning given to it in 44 U.S.C. 3502, except it does not include the Executive Office of the President or its components.

(b) "Agency head" shall mean the highest-ranking official of an agency, such as the Secretary, Administrator, Chairman, or Director.

(c) "DOGE Team Lead" shall mean the leader of the DOGE Team at each agency as described in Executive Order 14158 of January 20, 2025 (Establishing and Implementing the President's "Department of Government Efficiency").

(d) "Enforcement action" means all attempts, civil or criminal, by any agency to deprive a private party of life, liberty, or property, or in any way affect a private party's rights or obligations, regardless of the label the agency has historically placed on the action.

(e) "Regulation" shall have the meaning given to "regulatory action" in section 3(e) of Executive Order 12866, and also includes any "guidance document" as defined in Executive Order 13422 of January 18, 2007 (Further Amendment to Executive Order 12866 on Regulatory Planning and Review).

(f) "Senior appointee" means an individual appointed by the President, or performing the functions and duties of an office that requires appointment by the President, or a non-career member of the Senior Executive Service (or equivalent agency system).

Sec. 7. Exemptions. Notwithstanding any other provision in this order, nothing in this order shall apply to:

(a) any action related to a military, national security, homeland security, foreign affairs, or immigration-related function of the United States;

(b) any matter pertaining to the executive branch's management of its employees; or

(c) anything else exempted by the Director of the Office of Management and Budget.

Sec. 8. Severability. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

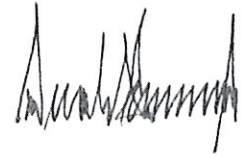
Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
February 19, 2025.

[FR Doc. 2025-03138
Filed 2-24-25; 8:45 am]
Billing code 3395-F4-P

LEGAL NOTICE OF FIRST AMENDMENT AND WHISTLEBLOWER PROTECTIONS

Notice of Protected Conduct Under U.S. Law

The undersigned and the organization Aidileys, operate as independent public interest advocates, engaging in constitutionally protected activities including:

- Public education on judicial and administrative practices;
- Submissions under the **Administrative Procedure Act** (5 U.S.C. § 553(e));
- Reporting suspected rights violations under federal and state constitutional provisions;
- Public interest research and amicus brief filings;
- Whistleblower protection advocacy for families harmed by systemic court misconduct.

All such activities are protected by:

- **First Amendment of the U.S. Constitution** – safeguarding freedom of speech, press, and petitioning government;
- **North Carolina Constitution (Art. I, §§ 12 & 14)** – affirming the right of the people to petition the government for redress and criticize public officials;
- **Federal Whistleblower Protection Act** and related state statutes;
- **Anti-SLAPP statutes, ADA Title II protections, and Public Interest Law doctrines.**

Any retaliation—legal, administrative, or informal—directed at the undersigned or any Aidileys-affiliated advocate **in response to these protected actions** shall be considered unlawful, and a matter for formal legal response.

This notice is hereby entered into the record of any proceeding or communication to which it is attached.

Date: 4/23/2025

Organization: Aidileys

Name: Amy Betts

Email: info@aidileys.org



TO:

Clerk of Court, Cabarrus County

FROM:

Amy Betts
President, Aidileys
Email: info@aidileys.org

SUBJECT:

Notice of Constitutionally Protected Advocacy and Whistleblower Protections Pursuant to U.S. ,
North Carolina Law and others that apply

I. PURPOSE

This formal notice is filed on behalf of **Aidileys**, an advocacy organization supporting families impacted by unconstitutional practices within child welfare systems and family courts across the state of North Carolina and the United States. Our advocacy includes:

- Public interest litigation, amicus briefs, and APA rulemaking petitions;
 - Civil rights complaints and policy reform proposals;
 - Whistleblower protection for affected parents, families, and professionals;
 - First-person reporting on due process violations, judicial misconduct, ADA denial, and unethical service mandates.
-

II. LEGAL BASIS FOR PROTECTION

Aidileys and its supporters are engaging in **protected legal and civic activity** under the following authorities:

Constitutional Protections

- **First Amendment, U.S. Constitution:** Protects freedom of speech, press, association, and petition of government for redress of grievances.
- **Seventh Amendment:** Guarantees the right to jury trial in cases involving common-law rights such as parental custody.

- **Fourteenth Amendment:** Guarantees due process and equal protection under the law.
- **Article I, Sections 12 and 14, North Carolina Constitution:** Reinforces the right to petition government and to express criticism of public officials.

Federal Statutory Protections

- **Administrative Procedure Act (5 U.S.C. § 553(e)):** Grants the public the right to petition agencies for rulemaking or repeal of unconstitutional regulations.
- **Americans with Disabilities Act (ADA Title II):** Prevents discrimination against disabled parents and children in public services and court processes.
- **Whistleblower Protection Acts:** Protect employees, advocates, and community members from retaliation when reporting misuse of public authority.

III. SCOPE OF PROTECTED CONDUCT

This Notice applies to any and all activity undertaken by **Aidileys and affiliated individuals**, including but not limited to:

- Submitting court filings or rulemaking petitions;
- Publishing personal or public interest stories;
- Testifying in public forums;
- Filing or assisting with complaints against agencies, judges, GALs, or public officers;
- Reporting judicial misconduct or rights violations;
- Advocating for constitutional family court and child welfare reform.

These activities are not subject to judicial suppression, gatekeeping, or administrative retaliation.

IV. NOTICE OF POTENTIAL RETALIATION

Any actions taken by judges, agency personnel, public employees, or others similarly situated to:

- Restrict this speech via gag, gatekeeper, or no-contact orders;
- Retaliate through legal threats, referrals, or false accusations;
- Obstruct public access to hearings, court filings, or public records;
- Intimidate or silence advocacy participants or whistleblowers;

...will be treated as violations of **civil rights law**, including **42 U.S.C. § 1983**, and may result in litigation, federal complaints, or press exposure.

V. CONCLUSION AND REQUEST FOR ACKNOWLEDGMENT

Aidileys and its supporters are not interfering with the court or engaging in unauthorized legal practice. We are exercising **fundamental civic rights** to petition, report, and protect those affected by systemic harm.

We respectfully request this formal notice be:

1. Entered into the public record;
2. Recognized by all judicial and administrative personnel;
3. Treated as a binding assertion of First Amendment and statutory rights under U.S. and North Carolina law.

We also reserve the right to escalate any acts of retaliation to federal oversight authorities, national press, civil litigation, and/or others similarly situated.

Respectfully Submitted,

Amy Betts

President

Aidileys

Date:

4/24/25



Attachments:

1. Amicus Curiae Brief
2. Executive Order 14219
3. Legal Notice of First Amendment and Whistleblower Protections
4. Notice of Constitutionally Protected Advocacy and Whistleblower Protection Pursuant to U.S. NC Law and others that apply
5. Notary acknowledgement

A handwritten signature, possibly reading "J. M.", is enclosed within a hand-drawn circle.

NOTARY ACKNOWLEDGMENT

State of North Carolina

County of Cabarrus

I, the undersigned Notary Public, do hereby certify that Amy Betts personally appeared before me this day and acknowledged that the foregoing Affidavit was executed by her and that the contents are true and correct to the best of her knowledge and belief.

Witness my hand and official seal, this the 24 day of April, 2025.

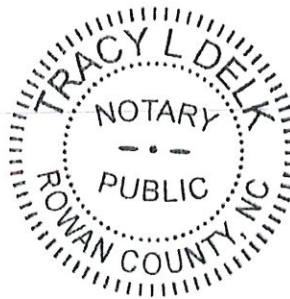
Notary Public Signature

Tracy L. Delk

Printed Name of Notary Public

My commission expires: 2-27-2029

(Official Seal)



CERTIFICATE OF SERVICE

I, Amy Betts, certify that on this 29th day of April, 2025, I served a copy of the foregoing **NOTICE OF VOID JUDGMENT AND DEMAND FOR JURY TRIAL**, along with the **VOID JUDGMENT** and **STATEMENT OF ELEMENTS OF JURISDICTION**, by depositing a true and correct copy thereof in the United States Mail, first-class postage prepaid, addressed as follows:

Stephen Brett Armstrong
104 Helmsman Dr.
Wilmington, NC 28412

Amy Betts
litigant.betts.amy@gmail.com

DATE: 4/29/25

ATTACHMENTS TO THIS FILING:

- VOID JUDGMENT
 - STATEMENT OF ELEMENTS OF JURISDICTION
 - This NOTICE OF VOID JUDGMENT AND DEMAND FOR JURY TRIAL
 - BELMONT COUNTY DISMISSAL
 - BELMONT COUNTY EXPUNGEMENT
 - CERTIFICATE OF SERVICE
 - DEMAND FOR TRIAL BY JURY
 - AMICUS CURIAE BRIEF
 - NOTICE OF PRO SE RIGHTS
-

NOTARY ACKNOWLEDGMENT

State of North Carolina

County of Cabarrus

I, the undersigned Notary Public, do hereby certify that Amy Belts personally appeared before me this day and acknowledged that the foregoing Affidavit was executed by her and that the contents are true and correct to the best of her knowledge and belief.

Witness my hand and official seal, this the 29 day of April, 2025.

Tracy L. Delk

Notary Public Signature

Tracy L. Delk

Printed Name of Notary Public

My commission expires: 2-27-2029

(Official Seal)

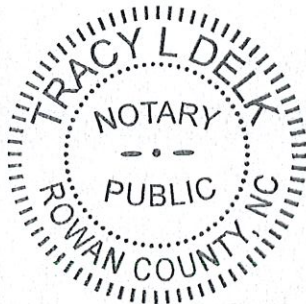


EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Case: 25-CV-341



AMY BETTS, individually and on behalf of all others similarly situated,
Plaintiffs,

v.

STEPHEN BRETT ARMSTRONG, et. al.
Defendants.

OBJECTION TO MAGISTRATE'S ORDER AND RECOMMENDATION

Plaintiff AMY BETTS respectfully files this Objection pursuant to Rule 72(b) of the Federal Rules of Civil Procedure to the Magistrate Judge's Order and Recommendation entered May 5, 2025 (Docket Entry 7), which recommends dismissal of Plaintiff's Verified Complaint under 28 U.S.C. § 1915(e)(2)(B) and denial of the Emergency Motion for Temporary Restraining Order as moot.

This recommendation is based on fundamental legal errors regarding subject matter jurisdiction under the Rooker-Feldman and Younger abstention doctrines, and it fails to engage the controlling constitutional issues, in violation of established Supreme Court precedent.

I. PLAINTIFF RAISES INDEPENDENT FEDERAL QUESTIONS THAT FALL OUTSIDE ROOKER-FELDMAN

The Magistrate Judge erroneously concludes that this action is barred under Rooker-Feldman by conflating the enforcement of a void judgment with a request for review of a state court decision. The Verified Complaint does not seek reversal of a state court decision. It seeks declaratory and injunctive relief based on ongoing violations of due process through the continued enforcement of a facially void custody order issued without jurisdiction, service, or notice.

This distinction is not theoretical—it is legally dispositive. As the Supreme Court explained in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005), Rooker-Feldman is confined to cases where a plaintiff “seeks redress for an injury caused by the state-court decision itself.” Plaintiff does not do so. Instead, Plaintiff challenges the unconstitutional enforcement and misuse of that void order by state actors under 42 U.S.C. § 1983, which the Supreme Court expressly permits. See *Skinner v. Switzer*, 562 U.S. 521, 532 (2011) (“Rooker-Feldman does not bar independent claims arising from the same facts.”)

II. PLAINTIFF'S CLAIMS FALL UNDER EX PARTE YOUNG AND BODDIE—NOT YOUNGER

The Magistrate also improperly invokes Younger abstention, suggesting that Plaintiff's claims interfere with ongoing state court proceedings. That doctrine applies only to legitimate state proceedings affording due process—not to facially void orders enforced without jurisdiction.

Plaintiff filed a state-level declaratory action asserting that the 2014 custody order was void ab initio and demanded a jury trial based on both state and federal constitutional violations, including due process and equal protection. Despite this, state officials unilaterally misclassified the action as a custody case and assigned Plaintiff as a defendant. These actions led to unlawful hearings scheduled without service or jurisdiction. This constitutes administrative obstruction—not a legitimate state proceeding.

The Younger doctrine does not apply when there is:

1. **No adequate forum for federal claims;**
2. **Bad faith or harassment;**
3. **Patently unconstitutional state conduct.**

See **Trainor v. Hernandez**, 431 U.S. 434 (1977). Plaintiff's filings and supplemental evidence make clear that all three apply here.

III. JUDICIAL AND QUASI-JUDICIAL IMMUNITY DO NOT BAR THIS SUIT

The Magistrate mischaracterizes Plaintiff's suit as an attack on judicial decisions. However, the Verified Complaint targets **administrative actions** outside the scope of judicial immunity. In **Forrester v. White**, 484 U.S. 219 (1988), the Supreme Court held that administrative functions by judges and court staff—such as misrouting filings or improperly classifying cases—are **not judicial acts** and are therefore not immune.

Court Coordinator Lyndsay Richardson and others engaged in non-judicial conduct that obstructed Plaintiff's access to court, an actionable violation of federal law.

IV. CONCLUSION

The Magistrate's recommendation ignores binding precedent, misapplies jurisdictional doctrines, and fails to address the substantive constitutional issues. This Court must:

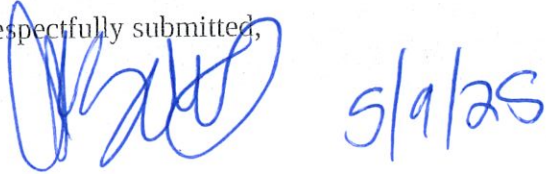
1. REJECT the Recommendation to dismiss;
2. VACATE the denial of the Emergency Motion as moot;
3. ORDER immediate adjudication on the TRO;
4. GRANT leave to supplement the Complaint with Count VII;
5. PERMIT service of process under 28 U.S.C. § 1915.

Verification Under 28 U.S.C. § 1746

I, Amy Betts, declare under penalty of perjury under the laws of the United States of America that the foregoing document, including all factual assertions made therein, is true and correct to the best of my knowledge, information, and belief.

Executed on this 9th day of May, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'Amy Betts', followed by the date '5/9/25' written in the same ink.

/s/ Amy Betts

Amy Betts, Pro Se

313 S East Ave

Kannapolis, NC 28083

litigant.betts.amy@gmail.com

Date: May 9, 2025

EXHIBIT 6

EXHIBIT

E



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

1 message

Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 11:47 AM

To: newhanover.familycourt@nccourts.org

Cc: clerk.newhanover@nccourts.org

Bcc: Amy Betts <litigant.betts.amy@gmail.com>

Dear Family Court Coordinator,

I am writing to formally request review and approval of a filing titled "**Notice of Void Judgment and Demand for Jury Trial**" related to the original custody order issued under **Case No. 13CVD2849** in the New Hanover County District Court. I submitted the filing through the Odyssey eFiling system under the civil category with supporting constitutional and jurisdictional documents, but it was returned with instructions to contact your office for prior review and approval.

As instructed, I am now submitting my full filing package for your review. The documents include:

- Notice of Void Judgment and Demand for Jury Trial
- Void Judgment
- Statement of Elements of Jurisdiction
- Amicus Curiae Brief (Aidileys)
- Belmont County Dismissal and Expungement Orders
- Certificate of Service
- Summons (AOC-CV-100)

Please note that I am filing as an **indigent litigant**, with fee waivers already granted and on record. The matter involves a jurisdictional and constitutional challenge based on denial of due process, lack of subject matter jurisdiction, and/or unlawful restrictions on protected parental rights. This filing is intended as a new civil action for declaratory relief and jury trial pursuant to the U.S. Constitution and the North Carolina Constitution, and is not a motion within the original custody docket.

I respectfully request your prompt review and confirmation of any additional steps required in order to proceed with proper filing. I am prepared to **resubmit electronically through the Clerk's Office via the Odyssey eFiling system upon receipt of confirmation or approval from your office.**

Thank you for your time and prompt attention to this matter. Please confirm receipt via this email, and let me know if any additional information is needed.

Sincerely,
Amy Betts
litigant.betts.amy@gmail.com



Void Judgment Plaintiff Betts.pdf
5877K

Request for Review - Void Judgment Related to 13CVD2849

New Hanover Family Court <NewHanover.FamilyCourt@nccourts.org>

To: Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 12:41 PM

Good afternoon,

Attached is the notice of scheduling which serves as your approval form for submitting to Odyssey/eCourts.

Thank you,

**Lyndsay Richardson**Court Coordinator
Sixth Judicial District (New Hanover/Pender Counties)**North Carolina Judicial Branch**

F 910-772-6633

O 910-772-7117

Justice for allwww.NCcourts.gov

From: Amy Betts <litigant.betts.amy@gmail.com>**Sent:** Wednesday, April 30, 2025 11:47 AM**To:** New Hanover Family Court <NewHanover.FamilyCourt@nccourts.org>**Cc:** clerk.newhanover@nccourts.org**Subject:** Request for Review - Void Judgment Related to 13CVD2849

You don't often get email from litigant.betts.amy@gmail.com. Learn why this is important

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

[Quoted text hidden]

E-mail correspondence to and from this address may be subject to the North Carolina public records laws and if so, may be disclosed.



13CVD002849-640 Notice of Scheduling.pdf
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STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE 13CVD002849-640

STEPHEN BRETT ARMSTRONG
Attorney: LEEANNE QUATTRUCCI
Plaintiff

**JUDICIAL ASSIGNMENT AND/OR
NOTICE OF SCHEDULING**

AMY BETTS
Attorney: DAVID M GODWIN
Defendant

1. The District Court Judge assigned to this action is		MELINDA H. CROUCH PATRICIA CHERIGO (910) 772-7115	
2. This case is set for the following purposes: (APPLIES ONLY TO THE BOXES THAT ARE CHECKED)			
Type of Hearing	Date	Time	Location
☐ Online Custody Mediation Orientation is set for:		1:00 PM	CONTACT MEDIATOR AT (910) 772-7114 (MUST CALL PRIOR TO THIS DATE)
☐ Custody Mediation is set for:		1:30 PM	CONTACT MEDIATOR AT (910) 772-7114
☐ Temporary or ☒ Permanent Child Support Hearing		9:30 AM	COURTROOM 300 New Hanover County Courthouse
☒ Temporary Custody or ☐ Temporary Visitation Hearing		9:30 AM	COURTROOM 301 New Hanover County Courthouse
☐ Permanent Custody or ☐ Permanent Visitation Hearing		9:30 AM	COURTROOM 300 New Hanover County Courthouse
☐ Postseparation Support or ☐ Alimony Hearing		9:30 AM	COURTROOM 301 New Hanover County Courthouse
☐ Initial Status Conference		9:30 AM	COURTROOM 300 New Hanover County Courthouse
☐ Interim Distribution or ☐ Equitable Distribution Hearing		9:30 AM	COURTROOM 300 New Hanover County Courthouse
☐ Motion:		9:30 AM	COURTROOM 301 New Hanover County Courthouse
☒ Other: Notice of Void Judgment and Demand for Jury Trial	8/18/2025 2-WEEK SESSION	9:30 AM	COURTROOM 300 New Hanover County Courthouse
NOTICE TO PARTIES: YOU ARE DIRECTED TO APPEAR AS SCHEDULED ABOVE. THIS SCHEDULING ORDER IS ENTERED PURSUANT TO THE CASE MANAGEMENT PLAN OF THE LOCAL RULES FOR THIS DISTRICT. A FAILURE TO APPEAR AS DIRECTED MAY SUBJECT YOU TO SANCTIONS BY THE COURT.			
DATED: 04/30/2025		<u>Lyndsay Richardson</u> FAMILY COURT CASE COORDINATOR	
The party for whom this "Judicial Assignment and/or Notice of Scheduling" is issued MUST serve a copy of this Judicial Assignment and/or Notice of Scheduling upon all parties.			

CONTACT LORI WAINRIGHT OR AMY STRIMAS AT (910) 772-7114 FOR QUESTIONS CONCERNING CUSTODY ORIENTATION OR MEDIATION DATES.



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 12:53 PM

To: New Hanover Family Court <NewHanover.FamilyCourt@nccourts.org>

Cc: clerk.newhanover@nccourts.org

Bcc: Amy Betts <litigant.betts.amy@gmail.com>

Dear Family Court Coordinator and Clerk of Court,

I am writing to formally object to the misclassification of my recently filed **Notice of Void Judgment and Demand for Jury Trial** as part of case number **13CVD002849-640**, which appears to have been reopened or continued despite being CLOSED. I am not represented by any attorney and have not authorized David M. Godwin or any other counsel to act on my behalf.

To clarify:

- My filing is a **new civil action** seeking declaratory relief based on constitutional violations, jurisdictional defects, and retaliatory obstruction.
- It was filed under **Miscellaneous Civil**, not as a post-judgment motion in a domestic matter.
- The "Notice of Scheduling" issued on 4/30/2025 improperly lists counsel, assigns the wrong case number, and fails to reflect the legal nature of my filing.

I respectfully demand that:

1. My filing be docketed correctly as a **new Miscellaneous Civil case**, separate from any closed or prior custody matter.
2. All references to unauthorized counsel be removed from the record.
3. My Notice of Void Judgment and supporting constitutional filings be heard independently, in accordance with civil due process protections.

This misclassification directly violates my rights under the **First and Fourteenth Amendments**, and I request written confirmation of the correction within five business days.

Respectfully,

Amy Betts

Pro Se Litigant

Email: litigant.betts.amy@gmail.com

[Quoted text hidden]



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 12:57 PM

To: New Hanover Family Court <NewHanover.FamilyCourt@nccourts.org>

Cc: clerk.newhanover@nccourts.org

Additionally, I must object to the assignment of this matter in what appears to be, to **Judge Melinda Crouch**, who previously presided over the case at issue and is directly involved in the underlying factual and procedural irregularities that gave rise to this filing. This includes the issuance of a no-contact order and denial of due process. Assigning this matter to a judge with personal involvement in the disputed actions creates a **clear appearance of bias** and raises serious **due process concerns** under the Fourteenth Amendment.

I respectfully request immediate **reassignment to an impartial judicial officer with no prior involvement in this matter**. I further request that my filing be corrected and restored as a **civil jurisdictional challenge**, not as a continuation of a domestic custody docket.

Please confirm these corrections and protections are being implemented.

-Amy Betts

[Quoted text hidden]



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 1:03 PM

To: New Hanover Family Court <NewHanover.FamilyCourt@nccourts.org>

Cc: clerk.newhanover@nccourts.org

Finally, I must object to the unauthorized inclusion of matters I have **not requested** in the "Notice of Scheduling," including permanent child support and temporary custody or visitation hearings. My filing contains **no such requests**. These items appear to have been **pulled from a closed domestic file**, not from the verified civil documents I submitted.

This action constitutes a **misrepresentation of the pleadings** and improperly re-opens proceedings that are **jurisdictionally and constitutionally void**. It also exposes me to hearings and judicial acts that I have **not requested** and that **this court has no jurisdiction to conduct** under the claims I have asserted.

I respectfully demand:

1. Immediate correction of the docket and removal of all references to child support or custody hearings not requested in my filing;
2. Reclassification of my filing as an independent civil action;
3. Reassignment to a neutral judge with no prior involvement in this matter.

Amy Betts

[Quoted text hidden]



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Amy Betts <litigant.betts.amy@gmail.com>

Wed, Apr 30, 2025 at 10:00 PM

To: "Cherigo, Patricia M." <patricia.m.cherigo2@nccourts.org>

Cc: New Hanover Family Court <newhanover.familycourt@nccourts.org>, clerk.newhanover@nccourts.org

Bcc: Amy Betts <litigant.betts.amy@gmail.com>

Dear Ms. Cherigo,

Thanks for your response.

I appreciate your willingness to assist in ensuring this is properly classified and scheduled.

To confirm:

The pleading I submitted—**Notice of Void Judgment and Demand for Jury Trial**—is intended to be filed as a **new civil complaint in Civil District Court**, not within the closed family court matter of **13CVD2849**. The nature of this filing is a **jurisdictional and constitutional challenge** seeking declaratory relief and a jury trial. It does not request or relate to custody, visitation, or support matters.

Because the filing was inadvertently routed into the prior family court docket and was improperly scheduled for custody and child support matters I did not raise, I respectfully request that the associated **Notice of Scheduling issued on April 30, 2025, be formally withdrawn and vacated from the record**. It does not reflect the actual nature of my filing and was not authorized by me. Allowing it to remain would misrepresent my position and could wrongfully imply that I consented to proceedings over which the family court lacks jurisdiction.

Additionally, I respectfully request that this matter be **assigned to a judicial officer who has had no prior involvement in the issues being challenged**. Judge Melinda Crouch presided over the proceedings that form the basis of my constitutional and jurisdictional challenge. Her continued assignment to any aspect of this new civil matter would raise serious due process concerns and compromise the appearance of impartiality required by law. For this reason, I request reassignment to a neutral judge unconnected to prior proceedings.

Please confirm in writing:

1. That the filing has been or will be reclassified as a new civil action;
2. That the prior scheduling order has been withdrawn and will not proceed;
3. That this matter will not be listed under Judge Crouch moving forward.

I appreciate your attention to this matter and your assistance in ensuring the record is procedurally and constitutionally sound.

I respectfully request a written response confirming the reclassification, reassignment, and scheduling correction, so the record is clear and appropriately preserved.

Sincerely,

Amy Betts

litigant.betts.amy@gmail.com

Pro Se Litigant

[Quoted text hidden]



Amy Betts <litigant.betts.amy@gmail.com>

Request for Review - Void Judgment Related to 13CVD2849

Amy Betts <litigant.betts.amy@gmail.com>

Thu, May 1, 2025 at 8:22 AM

To: "Cherigo, Patricia M." <patricia.m.cherigo2@nccourts.org>

Ms. Cherigo,

I am writing to clarify the nature of the Motion to Correct Docket Classification, which I am submitting in reference to my original filing submitted on April 30, 2025, under Envelope No. 2592502. This motion is not intended to initiate a new case or filing stream. Rather, it is a procedural request aimed at correcting the record and ensuring that the April 30 submission is properly classified as a new civil action—not a custody or family court matter.

I respectfully ask that this Motion be reviewed and associated with the original April 30 filing for docketing purposes. If no case number has yet been assigned, please consider the motion as clarification of the intended classification and judicial assignment.

I am attaching the Motion to Correct Docket Classification for your reference. Please feel free to contact me if additional information or clarification is needed.

Thank you for your time and assistance.

Respectfully,
Amy Betts
Pro Se Litigant
litigant.betts.amy@gmail.com
(313) [Insert last digits if desired]
Kannapolis, NC 28083

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 **motion to correct docket.pdf**
38K

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT

Case _____

Amy Betts
Plaintiff,

v.

Stephen Brett Armstrong
Defendant,

**MOTION TO CORRECT DOCKET
CLASSIFICATION, WITHDRAW**

**UNAUTHORIZED SCHEDULING, AND
PRESERVE PROCEDURAL INTEGRITY**

NOW COMES the Plaintiff, Amy Betts, appearing pro se, and respectfully moves this Court to preserve the procedural and constitutional integrity of the record in this matter. Plaintiff seeks corrective action to prevent mischaracterization of her filing and preempt any implied jurisdictional submission. In support, Plaintiff states as follows:

1. On or about April 25, 2025, Plaintiff filed a Notice of Void Judgment and Demand for Jury Trial through the New Hanover County eFiling system. The filing presents a civil constitutional challenge to a 2014 custody order entered under Case No. 13CVD2849.
2. The pleading was not submitted within that closed family court case, but as a new civil matter asserting due process and jurisdictional violations and seeking declaratory relief.
3. Plaintiff was subsequently informed that the filing had been routed to the Family Court Office and a family law hearing had been scheduled, which Plaintiff never requested and explicitly opposes.
4. Plaintiff provided written clarification on April 30, 2025, explicitly stating:
 - The filing is a new civil complaint for declaratory relief;
 - It was not intended for processing under the family docket;
 - Plaintiff does not consent to custody jurisdiction in New Hanover;
 - Plaintiff objects to assignment of Judge Crouch, who previously ruled in the matter now challenged as void.
5. As of the date of this Motion, Plaintiff has not received written confirmation that:
 - The docket has been corrected to reflect a civil classification;
 - The scheduling order has been vacated;
 - The matter has been reassigned away from Judge Crouch.

6. Without immediate correction, these actions could misrepresent Plaintiff's position and violate procedural due process.

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Confirm the filing is accepted and docketed as a new civil action; B. Withdraw and vacate any family court scheduling orders issued in error; C. Reassign this matter to a judicial officer not previously involved in Case No. 13CVD2849; D. Confirm in writing that Plaintiff's civil complaint will not be misrouted to the family docket; E. Grant such other relief as is just and necessary to preserve the procedural integrity of this case.

Respectfully submitted,

Amy Betts

Pro Se Litigant

313 S East Ave. Kannapolis, NC 28083

litigant.betts.amy@gmail.com

Date: 5/1/25

EXHIBIT 7

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Appeal Case: 25-CV-341**



AMY BETTS, individually and on behalf of all others similarly situated,
Plaintiff-Appellant,

v.

STEPHEN BRETT ARMSTRONG,

LYNDSAY RICHARDSON,

LEANNE QUATTRUCCI,

MELINDA CROUCH,

STATE ACTORS OF NORTH CAROLINA, AND JOHN DOES 1-10,
Defendants-Appellees.

MOTION FOR CLASS CERTIFICATION PURSUANT TO FED. R. CIV. P. 23(b)(2)

NOW COMES Plaintiff, Amy Betts, proceeding pro se/pro per and on behalf of all others similarly situated, and respectfully moves this Court to certify this action as a class action under Rule 23(b)(2) of the Federal Rules of Civil Procedure. This action challenges systemic and uniform constitutional violations committed by state actors under color of law, and injunctive and declaratory relief is appropriate for the class as a whole.

I. CLASS DEFINITION

The proposed class is defined as:

All individuals in North Carolina who, within the past ten years, have been subjected to obstruction of court access, administrative interference with filings, denial of disability accommodations, or retaliatory action by court officials or judicial officers acting under color of state law, in a manner that violates their constitutional rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

II. RULE 23(a) REQUIREMENTS

1. **Numerosity:** The class is so numerous that joinder of all members is impracticable. The pattern of misconduct by state actors, as documented in Plaintiff's pleadings, affects numerous pro se/pro per litigants, indigent parents, and disabled individuals.
 2. **Commonality:** There are questions of law and fact common to the class, including whether the practices of misclassifying filings, refusing docket access, and selectively obstructing legal process violate the Fourteenth Amendment.
 3. **Typicality:** Plaintiff's claims are typical of the claims of the class, as she was subjected to the same course of unconstitutional conduct and seeks the same relief.
 4. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the class. She has demonstrated a thorough understanding of the legal issues and has no conflict with other members of the proposed class.
-

III. RULE 23(b)(2) REQUIREMENTS

Defendants have acted or refused to act on grounds that apply generally to the class, such that final injunctive relief or corresponding declaratory relief is appropriate for the class as a whole. The practices challenged are systemic and ongoing.

IV. RELIEF REQUESTED

Plaintiff respectfully requests that the Court:

1. Certify this action as a class action under Fed. R. Civ. P. 23(b)(2);
2. Designate Plaintiff Amy Betts as the class representative;
3. Permit Plaintiff to amend or supplement the pleadings as necessary to further define class issues;
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



6/2/25

/s/ Amy Betts
Amy Betts, Pro Se
313 S East Ave
Kannapolis, NC 28083
litigant.betts.amy@gmail.com