

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....
In the Matter of a Proceeding under
 Article of the Family Court Act
 Section of the Social Services Law
 Section of the Domestic Relations Law

Docket No.

Petitioner,

-against-

Respondent
.....

Petition
For Writ of
Habeas Corpus

TO THE FAMILY COURT:

The undersigned Petitioner respectfully alleges upon information and belief that:

1. Petitioner resides has offices at [specify address]: and is
the [specify relationship]: of the following child(ren), who (is)(are) the subject(s)
of this application:

Name of Child

Date of Birth

2. Respondent resides has offices at [specify address]:, and is
the [specify relationship]: of the child(ren).

3. [Check box(es) if either or both parties are in or recently returned from active military service]:¹
 Petitioner is on active duty, deployed or temporarily assigned to military service as follows
[specify type of service, military branch or National Guard unit, anticipated dates and location of duty and
how duty is likely to affect custody or visitation, if at all]:

Petitioner returned from active duty, deployment or temporarily assignment to military service
as follows [specify date of return, type of service, military branch or National Guard unit, anticipated
dates, and location of duty and how duty is likely to affect custody or visitation, if at all]:

¹ Inapplicable if the party is based at a permanent duty station or had a permanent reassignment of station.

Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

Respondent returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

4. (Upon information and belief,) [check applicable box(es)]:

(T)(t)he above child(ren) (is)(are) in the custody of the Respondent and (has)(have) been since [specify date]:

Respondent wrongfully and unlawfully removed withheld the child(ren) from the custody of the Petitioner in that [specify]:

Respondent wrongfully prevented or interfered with Petitioner's visitation rights with the child(ren) in that [specify]:

5. Petitioner has requested the return of the child(ren) from Respondent and Respondent has failed and refused to return the child(ren) to the custody of the Petitioner. [Delete if inapplicable].

6. **[REQUIRED; check A and applicable boxes, or B or C]**

A. I know or have reason to believe that the child who is the subject of this proceeding may be a Native-American child, who may be subject to the *Indian Child Welfare Act of 1978* (25 U.S.C. §§ 1901-1963), subject to the ultimate determination by the tribe or nation. The following is the basis for my information and belief [specify]:

And the following have been notified [check applicable box(es)]:

parent/custodian [specify name and give notification date]:

tribe/nation [specify name and give notification date]:

United States Secretary of the Interior [give notification date]:

OR

B. I know or have reason to believe that the child who is the subject of this proceeding may not be a Native-American child, who may be subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963), subject to the ultimate determination by the tribe or nation. The following is the basis for my information and belief [specify]:

OR

C. I have not yet obtained information indicating whether the child who is the subject of this proceeding may be a Native-American child, who may be subject to the Indian Child

12. [Check applicable box]:

- The following person(s) not party to these proceedings have claimed physical custody or
 visitation rights to the child(ren) as follows:

I know of no person(s) not a party to the proceedings who claim(s) to have custody or visitation rights with respect to the child(ren) affected by this proceeding.

13. A custody or visitation proceeding concerning the same child(ren) is is not pending in New York State. [If pending, give court docket number and status of case]:

14. The custody or visitation of the child(ren) has been determined or agreed upon in the following instruments [specify court, if any, and date and attach true copy of instrument(s)]:

- Custody order
- Stipulation
- Judgment of Divorce
- Separation Agreement
- Custody or Guardianship Agreement [confirmed by _____ court]

15. [Check applicable box]: Petitioner Respondent obtained custody of the child(ren) on [specify date]: _____, as follows:

16. a. The child(ren) are are not the subject(s) of any order, mandate, judgment or decree of any court of competent jurisdiction, nor has any appeal been taken from any such order, mandate, judgment or decree, [delete if inapplicable]: (except [specify, including court, county, date, docket or index number and status]: _____)

b. No court or judge of the United States has exclusive jurisdiction to order the child(ren) released.

17. An Order of Protection of Temporary Order of Protection was issued [check applicable box(es)]:
 against Respondent against me in the following criminal, matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The Order of Protection Temporary Order of Protection) expired or will expire on [specify]:

18. [Check applicable box]:

The custody of the child(ren) should be returned to the Petitioner for the following reasons [specify]:

Visitation rights should be granted to Petitioner for the following reasons [specify]:

WHEREFORE, Petitioner requests that a Writ of Habeas Corpus be directed to the Respondent(s), commanding the Respondent(s) to produce the child(ren) in this Court, in order that (s)he may be given the custody visitation rights to the child(ren).

Petitioner

Print or type name

Signature of attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

I am the Petitioner in the above-entitled proceeding and affirm this ___ day of _____, _____, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the above statements are true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

Petitioner: Signature/ Print or type name