

## **Testimony of Sai Malena Jimenez, Impacted Parent and Former Foster Parent**

### **Presented to the New York State Senate Standing Committee on Children and Families and Senate Standing Committee on Judiciary**

**Subject: Conducting oversight of the Family Court throughout the State, including its resources, operations, and outcomes**

**November 1, 2023**

My name is Sai Malena Jimenez Fogarty. I am a parent who has been impacted by the family policing system—or the so-called “child welfare system” and the family court. I am also a former foster parent and the daughter of a former Ambassador at the United Nations. My mother was part of a committee dealing with child abuse in the USA and worldwide. Thank you for this opportunity to testify about the harms of the family court system.

For over two years, my husband has weaponized the family policing system against me. For over a decade he physically, emotionally, and racially abused me. Within 24 hours of telling my husband I was finally going to leave him due to domestic violence, he made a false report against me. This started the case that led to my temporary loss of custody of my two children.

Right from the start, the corruption in my case was severe. Almost immediately, a restraining order was ordered against me based on false allegations and without any evidence. I was abruptly forced out of my home with no notice and no opportunity to be represented by counsel. My husband transferred all of our money out of our joint bank account, and I was not granted any emergency spousal support or legal fees for nine months. In that time frame, I had to pay over \$136,000 out of pocket in legal fees, supervision fees, housing bills (even though I was not living at home), and lodging and food for my children and me. I was a stay at home mom at the time with no money yet if I did not pay that money I was threatened with contempt of court and arrest. I maxed out credit cards, begged and borrowed just to survive. I had to pay supervisors in order to see my children and they charge up to \$200 an hour.

During this time, I was also investigated by Child Protective Services due to my husband's false report. The investigation itself was invasive, but it did not yield any suspicion of me.

Nonetheless, the judge ordered temporary custody of my children to my estranged husband without justification nor a hearing or trial of any kind.

It didn't make sense—until I discovered that all three attorneys on my husband's legal team have social or professional ties to the judge presiding over my case. The first attorney worked for the judge for five years right before going into private practice. The second attorney is a long-time friend of the judge and they go on vacation together. The third attorney, who is also a partner at the law firm, threw a political fundraiser for the judge in her home in the middle of my case. Now, the corruption was clear. In addition, the professionals that are supposed to be neutral in my case are all affiliated with my husband's legal team.

Eventually, that judge recused herself—but the new judge is just as bad. This judge yells and berates me in court—and his abuse is clearly racialized. He refuses to call me by my Latina last name, and my children and I are prohibited from speaking Spanish—even though it is our native language. Before my daughter's first communion, he denied my application to take her to a Dominican hair salon that knows how to do ethnic hair. All the while, my estranged husband, who is white, continues to physically and racially abuse our children—and the judge neglects the evidence every time.

Without justification, the judge took away my court-ordered phone calls with my children. After my mother died, he refused to excuse me from two court conferences. I was not able to be present to bury my mother because of this. Then, the judge began my custody trial while I was in the hospital and did not have a lawyer. When I presented evidence to the court that my children are in imminent danger in my husband's care, the judge issued an order prohibiting me from communication with the court without his permission or approval. My children's lives are still in danger today.

Stories like mine are often used to justify the known harms of family court. However, as a parent of children who are truly being abused by their father, I am here today to tell you that family

court doesn't help in our cases either. CPS has investigated my estranged husband five times, but he still has custody. Our children showing up with bloody legs, black eyes, and other physical injuries has become the norm. On numerous occasions, my son has said: dad is going to kill us. All of this evidence has been provided to the judge, yet he does nothing.

Over the last two years, I've had no due process. The courts have relentlessly violated my civil, parental, human, and constitutional rights. Family court is a billion dollar industry driven by money, not justice. More training and money into the system is not the solution. Those fixes are equivalent to putting a Band-Aid on a wound hemorrhaging blood.

The family court system needs accountability. We need a meaningful mechanism to report judicial misconduct. We need judicial oversight to make sure the law is followed in the courtroom. We need a neutral, independent court watch program so that court watchers can hold judges accountable too.

We also need to prevent families from being targeted by this system in the first place. One simple way that we can do this is to pass the Anti-Harassment in Reporting Act. My estranged husband has used anonymous CPS reports as a tool of harassment—and I know my experience of this is a common one. Survivors of domestic violence are disproportionately targeted and harmed by anonymous reporting. CPS' violent invasions of my family's rights and privacy have only made the very real harms we are experiencing worse.

We're calling on you to do everything in your power to stop this system from destroying more families.

Thank you.