

No. \_\_\_\_\_

**IN THE  
SUPREME COURT OF THE UNITED STATES**

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**IN RE: CARE AND PROTECTION OF A MINOR**

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**ON PETITION FOR A WRIT OF CERTIORARI TO  
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH OF MASSACHUSETTS**

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

**I.** Whether right to parent of biological parents' can be terminated by a single judge and statutorily transferred to foster parents when a parent raises their right to a jury trial?

### PROBLEM:

Statutory care and protection proceedings are quasi-criminal because they bear many of the indicia of a criminal trial, and because numerous factors combine to magnify the risk of erroneous factfinding, the defendant's interest in personal freedom, and not simply the special Sixth & Fourteenth Amendments right to a jury trial in criminal cases, trigger the right to a jury trial.

**II.** Should parents subject to permanent termination of parental rights have federal Due Process protection to states' right to a jury trial?

### PROBLEM:

All states have constitutional jury right protections for civil cases, but parents are unable to raise this right in care and protection proceedings because petitioning for a jury trial right within their respective state will subject parents to permanent and irreversible injury to the familial unit due to appellate oversight or delay.

## LIST OF PARTIES

Attorney General's Office – Boston

M. E. counsel for DCF

B. C. counsel for minor child

R. C. counsel for mother

## RELATED CASES

Same Parties; SCOTUS Dockets 20-6128, 18-8150, 16-9436

## TABLE OF CONTENTS

(Under two pages)

## INDEX TO SEALED APPENDICES

Appendix A – Notice of Denial of Motion for Reconsideration

Appendix B – Motion for Rehearing with exhibits; Notice of Appeal, Motion for Jury Trial, and judgment of state's highest court dk. SJC-13118 (attached as Appendix C)

Appendix C - Judgment of state's highest court dk. SJC-13118

## TABLE OF AUTHORITIES CITED

*Troxel v. Granville*, at Syllabus (a), 530 U.S. 57 (2000).

*Santosky v. Kramer*, 455 U.S. 745 (1982).

*See Lassiter v. Dep't of Social Services*, 452 U.S. 18, (1981)

6<sup>th</sup> & 14<sup>th</sup> Amendments.

**IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The opinion of the highest state court to review the merits appears at Sealed Appendix C to the petition and has been designated for publication but is not yet reported.

**JURISDICTION**

The date on which the highest state court decide my case was October 21, 2021. A copy of that decision appears at Sealed Appendix C. A timely petition for rehearing, treated as a Motion for Reconsideration appears at Sealed Appendix B, was thereafter denied on November 15, 2021, and a copy of the order denying rehearing appears at Appendix A. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED**

14<sup>th</sup> Amendment

**STATEMENT OF THE CASE**

Parental rights of both biological parents have been terminated by the state (single judge) and transferred to a foster parent. Father raised a valid question of law concerning right to a jury trial, and this question is being dodged by the state. *See* Sealed Appendix B.

## REASON FOR GRANTING THE PETITION

Custody of children can be judicially divided between parents through equitable division. However, transferring a right to parent from biological parents to foster parents concerns termination of a fundamental right; this is not equitable division.

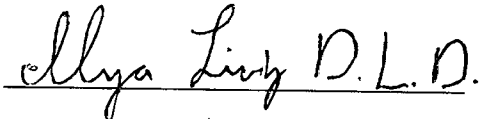
I. “The Fourteenth Amendment’s Due Process Clause has a substantive component that “provides heightened protection against government interference with certain fundamental rights and liberty interests.” See *Troxel v. Granville*, at Syllabus (a), 530 U.S. 57 (2000). “In parental rights termination proceedings, which bear many of the **indicia of a criminal trial**, numerous factors combine to magnify the risk of erroneous fact finding.” See *Santosky v. Kramer*, 455 U.S. 745 (1982). (**Emphasis added.**) “Because parents subject to termination proceedings are often poor, uneducated, or members of minority groups, such proceedings are often vulnerable to judgments based on cultural or class bias.” *Id.* And their liberty hinges on the decision-making of a single judge. Appellate remedy is unviable; on top of small likelihood of appellate relief based on abuse of discretion claim, appellate delay, which takes years, creates permanent injury during a time when a child is growing very quickly. “... the Defendant’s interest in personal freedom, and not simply the special Sixth & Fourth Amendments right to [a jury trial] in criminal cases, which triggers the right to [a jury trial] ...” See *Lassiter v. Dep’t of Social Services*, 452 U.S. 18, [5], at ¶ 2 (1981) (Jury trial substituted for right to appointed counsel.)

II. Alternatively: even though all states have constitutional jury right provisions for civil cases, future parents of United States in care and protection proceedings will be unable or deterred from raising their right to a jury because appellate oversight or appellate delay creates permanent and irreversible injury to familial association.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted



Date: January 5<sup>th</sup>, 2022