

No. 22-1119

In The
Supreme Court of the United States

M.B.,

Petitioner,

v.

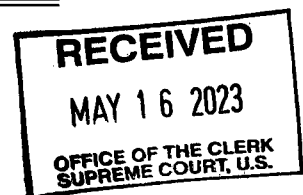
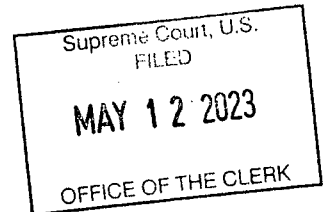
D.L.,

Respondent.

**On Petition For Writ Of Certiorari
To The Supreme Court Of New Jersey**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Should this Court's decision in *Troxel et vir v. Granville*, 530 U.S. 57 (2000) be reversed and the issue of grandparent visitation be returned to the people and their elected representatives?

PARTIES

Michael Bandler (MB)

Doree Lyne (DL)

CORPORATE DISCLOSURE STATEMENT

This petition is not filed on behalf of a corporation.

PRIOR PROCEEDINGS

Superior Court of New Jersey,

Chancery Division, Family Part, Essex County

Docket FD-07-002412-20

Bandler Michael v. Lyne Doree, Lyne Michael

Decision Date: December 24, 2020

Reconsideration Date: June 17, 2021

Superior Court of New Jersey, Appellate Division

Docket: A-1473-20

M.B. v. D.L.

Decision Date: June 22, 2022

Reconsideration Date: July 18, 2022

Supreme Court of New Jersey

Docket: September Term 2022 087410

M.B. v. D.L.

Order Denying Certification: January 13, 2023

TABLE OF CONTENTS – BRIEF

Content	Page
Question Presented for Review	i
Parties	ii
Corporate Disclosure Statement	ii
Prior Proceedings.....	ii
Table of Contents	iii
Citation of Opinions and Orders	v
Table of Authorities	vi
Opinions and Orders Below.....	1
Basis of Jurisdiction in this Court	
Date of the Order Sought to be Reviewed.....	1
Rehearing of the Order Sought to be Reviewed and Extension of Time.....	1
Reliance on Rule 12.5.....	2
Statutory Provision Conferring Jurisdiction.....	2
Statement of Notifications.....	2
Statute and Constitutional Provision	
Involved in this Case.....	2
Statement of the Case	
Material Facts	6
When the Federal Issues Were Raised in the State Courts	6
When the Federal Issues Were Raised in the United States Court of Appeals.....	7
Reason for Allowing the Writ	8

TABLE OF CONTENTS – APPENDIX

Content	Page
Superior Court of New Jersey, Chancery Division, Family Part, Essex County.....	App. 1
Superior Court of New Jersey, Chancery Division, Family Part, Essex County – Reconsideration.....	App. 8
Superior Court of New Jersey, Appellate Division.....	App. 26
Superior Court of New Jersey, Appellate Division – Reconsideration	App. 42
Supreme Court of New Jersey	App. 44

CITATION OF OPINIONS AND ORDERS

Order	Cited at Page
Superior Court of New Jersey, Chancery Division, Family Part, Essex County.....	ii, iv, 1, 6
Superior Court of New Jersey, Chancery Division, Family Part, Essex County – Reconsideration.....	ii, iv, 1
Superior Court of New Jersey, Appellate Division.....	ii, iv, 1, 6, 7
Superior Court of New Jersey, Appellate Division – Reconsideration	ii, iv, 1
Supreme Court of New Jersey	ii, iv, 1

TABLE OF AUTHORITIES

<u>Authority</u>	<u>Cited at</u> <u>Page</u>
<u>Federal Cases</u>	
Dobbs v. Jackson Women’s Health Organization, No. 19-1392, 597 U.S. ____ (2022)	7, 8, 9
Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 (1992)	8
Roe v. Wade, 410 U.S. 113 (1973)	8
Troxel et vir v. Granville, 530 U.S. 57 (2000)	6, 8, 9
<u>United States Constitution</u>	
Amendment XIV	5, 9
<u>Federal Statute</u>	
28 U.S.C. § 1257	2, 3
<u>New Jersey Statute</u>	
N.J.S.A. 9:2-7.....	9

OPINIONS AND ORDERS BELOW

The trial court, the Superior Court of New Jersey, Chancery Division, Family Part of Essex County, filed its initial order on December 24, 2020 and then an order on reconsideration on June 17, 2021. The Appellate Division of the Superior Court of New Jersey filed its initial order on June 22, 2022 and then an order on reconsideration on July 18, 2022. The Supreme Court of New Jersey filed its order denying certification on January 10, 2023.

**BASIS OF JURISDICTION IN THIS COURT****DATE OF THE ORDER SOUGHT
TO BE REVIEWED**

Review is sought of the January 10, 2023 order of the New Jersey Supreme Court. This petition is not filed pursuant to Rule 11.

**REHEARING OF THE ORDER SOUGHT TO
BE REVIEWED AND EXTENSION OF TIME**

There was no rehearing of the order sought to be reviewed. A 30 day extension of the time for filing this petition was granted by Justice Alito on April 28, 2023.



RELIANCE ON RULE 12.5

This is not a cross-petition and there is no reliance on Rule 12.5.

◆

**STATUTORY PROVISION
CONFERRING JURISDICTION**

28 U.S.C. § 1257(a) confers on this Court jurisdiction to review on a writ of certiorari the order in question.

◆

STATEMENT OF NOTIFICATION

No notification of this petition is required pursuant to Rule 29.4(b) or (c).

◆

**STATUTE AND CONSTITUTIONAL
PROVISION INVOLVED IN THIS CASE**

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or

**STATUTE AND CONSTITUTIONAL
PROVISION INVOLVED IN THIS
CASE - CONTINUED**

claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States. 28 U.S.C. § 1257(a).

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce immunities of any law which shall abridge the privileges or citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens.

**STATUTE AND CONSTITUTIONAL
PROVISION INVOLVED IN THIS
CASE – CONTINUED**

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability. shall bear to the whole number of male citizens twenty-one years of age in such state.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

**STATUTE AND CONSTITUTIONAL
PROVISION INVOLVED IN THIS
CASE - CONTINUED**

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

14th Amendment United States Constitution



STATEMENT OF THE CASE

Material Facts

Ms. Doree Lyne (“Ms. Lyne”) resides, with her husband Mr. Michael Lyne (“Mr. Lyne”) (collectively the “Lynes”) in Essex Fells, N.J. Mr. Michael Bandler (“Mr. Bandler”) resided at all relevant times in Quechee, Vermont and is the father of Ms. Lyne. Gregory Lyne born in April 2011, and Zachary Lyne, born in April 2014 (collectively the “Young Men”), are the sons of the Lynes and the grandsons of Mr. Bandler.

Despite living almost 300 miles away, Mr. Bandler reached a visitation arrangement with the Lynes (the “Visitation Agreement”) that allowed him to be regularly involved in the lives of the Young Men. Up until the matters complained of pursuant to the Visitation Agreement, Mr. Bandler has spent time with the Young Men, most months since their births.

Even so, in December 2019, Ms. Lyne informed Petition for Writ of Certiorari Mr. Bandler, the Lynes would no longer abide by the Visitation Agreement and have since denied him time with the Young Men.

When The Federal Issues Were Raised in the State Courts

A review of state court orders is sought by this petition. The question of the correctness of the decision in *Troxel et vir v. Granville*, 530 U.S. 57 (2000) was first raised in a brief before the New Jersey trial court and then again in the initial brief before the New Jersey Appellate Division.

STATEMENT OF THE CASE - CONTINUED

The Dobbs decision was added in a brief in support of the motion for reconsideration before the Appellate Division and raised again in the petition for certification to the Supreme Court of New Jersey.

**When The Federal Issues Were Raised
in the United States Court of Appeals**

No review of a judgment of the United States Court of Appeals is sought by this petition.



REASON FOR ALLOWING THE WRIT

Grandparent visitation has become a growing issue. The baby boom has become the grandparent boom: There are now more grandparents in the United States than ever before – some 70 million, according to the latest census. Of all adults over 30, more than 1 in 3 are grandparents.

A very special relationship often arises between grandparents and grandchildren. The tensions and conflicts which commonly mark relations between parents and children are often absent between grandparents and their grandchildren. Visits with a grandparent are often a precious part of a child's life experience.

As a result of the recent decision in *Dobbs v. Jackson Women's Health*, 597 U.S. ____ (2022), overturning the prior decisions in *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833 (1993), reconsideration of the conflicting decision in *Troxel v. Granville*, 530 U.S. 57 (2000) is overdue.

There has long been a New Jersey Grandparent Visitation Statute which spells out the standard for the award of grandparent visitation:

A grandparent or any sibling of a child residing in this State may make application before the Superior Court, in accordance with the Rules of Court, for an order for visitation. It shall be the burden of the applicant to prove

**REASON FOR ALLOWING THE WRIT -
CONTINUED**

by a preponderance of the evidence that the granting of visitation is in the best interests of the child. N.J.S.A. 9:2-7.1.

New Jersey courts began to apply the statutory “best interests” standard as far back as the 1970s, but alas there was a sea change ahead.

The Troxel Court imposed a grandparent visitation standard of “a showing of harm or potential harm to the child as a condition precedent to granting visitation.” Only when harm is proven is the presumption in favor of a fit parent’s decision making overcome.

Flash forward to June 2022 and in Dobbs the Court does away with the myth of an unwritten application of the Fourteenth Amendment’s Due Process Clause.

Indeed, now is the time for the Troxel standard to fall and such matters be returned to the people and their elected representatives.

Respectfully submitted,

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