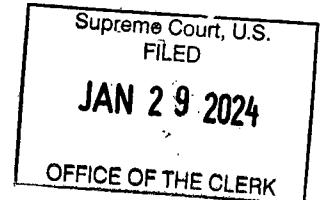


23-6646  
No. \_\_\_\_\_

ORIGINAL

IN THE  
Supreme Court of the United States



DANA ALBRECHT,

*Petitioner,*

v.

KATHERINE ALBRECHT,

*Respondent.*

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On Petition for a Writ of Certiorari to the  
Supreme Court of New Hampshire

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

A recent New Hampshire Supreme Court precedential *Opinion* (July 25, 2023) addressed the enforcement of a valid child custody decree in a multi-state diversity of citizenship family law matter that also involved a civil domestic violence order of protection.

On November 1, 2019, the petitioner filed a motion in a New Hampshire trial court to enforce a court-ordered parenting plan granting him time with his children. Subsequently, on November 12, the respondent requested a civil domestic violence protection order. The court, on November 19, refused to combine the parenting contempt motion with the domestic violence petition for a single hearing, citing time constraints and a conflicting schedule. The court then conducted a three-day trial on the domestic violence petition, ruling against the petitioner, partly because of whether he had scheduled parenting time. However, the court did not address the petitioner's initial parenting contempt motion until 2022 (2 1/2 years later), ultimately finding against him without ever holding any hearing.

The New Hampshire Supreme Court then concluded that a timely hearing or decision on the petitioner's parenting contempt motion would not have altered the outcome, but did not address the intervening three-day civil domestic violence trial in any way.

**The first question presented is: *Whether, or under what circumstances, does the Fourteenth Amendment require a trial court to hold a hearing on the enforcement of a child custody decree in a timely fashion?***

In stark contrast to the N.H. Supreme Court's Opinion, Judge Ho's concurring opinion in *United States v. Rahimi*, 61 F. 4th 443,465-66 (2023) addressed the misuse of civil protective orders in custody battles during divorce proceedings. The Fifth Circuit observed that divorce lawyers often recommend these orders as strategic tools, potentially leading to biased, unfair, or even farcical decisions that may violate the Fourteenth Amendment's guarantees of equal protection and due process. Cf. *Troxel v. Granville*, 530 U.S. 57 (2000).

The petitioner alleges that the N.H. Supreme Court's *Opinion* is a "textbook example" of a biased, unfair, or even farcical opinion pursuant to *Rahimi*. This creates inconsistency in the application of federal law between New Hampshire and the states under the Fifth Circuit (Texas, Louisiana, Mississippi), potentially necessitating U.S. Supreme Court intervention for resolution.

**The second question presented is: Does the Fourteenth Amendment require objective standards for the issuance or renewal of civil domestic violence orders of protection?**

## **LIST OF ALL PROCEEDINGS**

*Dana Albrecht v. Katherine Albrecht*

Supreme Court of New Hampshire

Case No. 2022-0517, No. 2019-0436, No. 659-2016-DM-00288

Decision Date: September 1, 2023

*Katherine Albrecht v. Dana Albrecht*

Supreme Court of New Hampshire

Case No. 2021-0192, No. 659-2019-DV-00341

Decision Date: December 16, 2021

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner Dana Albrecht respectfully petitions this Court for a *writ of certiorari* to review a precedential *Opinion* of the Supreme Court of New Hampshire, and other directly related orders.

### **OPINIONS AND ORDERS BELOW**

The appeal requests review by this Honorable of a precedential Opinion of the Supreme Court of New Hampshire, No. 2022-0517, in a highly contested family law case. The Opinion is scheduled for publication, and is also included in the Appendix.

A directly related *Order* of the Supreme Court of New Hampshire, No. 2020-0192 (December 16, 2021) involving the same parties, was published to the public, and by the press, in the *New Hampshire Union Leader*, and received both state and national news coverage, but is otherwise “unpublished” by traditional legal methods.

### **JURISDICTION**

The Supreme Court of New Hampshire entered its judgment on September 1, 2023. This Court has jurisdiction pursuant both to 28 U.S.C. § 1257(a) and 28 U.S.C. § 1251. On March 8, 2022, Justice Jackson granted Petitioner’s application (No. 23A488) to extend the time to file a petition for a writ of certiorari to January 29, 2024.

## **CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED**

Section One of the Fourteenth Amendment to the United States Constitution provides that “[N]or 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.”

The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

NH Rev Stat § 173-B (2014) (“Protections of Persons from Domestic Violence”).

NH Rev Stat § 633-3:a (2015) (“Stalking”).

## **INTRODUCTION**

This case, “*In the Matter of Albrecht*,” is a complex, seven-year legal battle spanning New Hampshire, Massachusetts, California, and Michigan. Dana Albrecht, the Petitioner, and Katherine Albrecht, the Respondent, are ex-spouses now embroiled in a heated dispute over child custody and civil domestic violence allegations involving their four children.

The current appeal to this Honorable Court seeks to review the New Hampshire Supreme Court’s denial of the Petitioner’s contempt motion against the Respondent. This motion accuses her of violating their parenting plan, specifically

concerning unapproved vacations with the children and custody misrepresentations to authorities. The New Hampshire Supreme Court, agreeing with the lower court, found no intentional violation by the Respondent, marking a crucial juncture in the case.

Notably, the New Hampshire Supreme Court overlooked the impact of delaying the Petitioner's parenting case for years, which was postponed in favor of the Respondent's civil domestic violence case. This omission merits a reconsideration of the decision. See, e.g. *United States v. Rahimi*, 61 F. 4th 443,465-66 (2023)

Furthermore, the case is mired in controversies and procedural irregularities, including delays and potential judicial conflicts of interest, complicating the dispute. It underscores not just the personal conflict between Dana and Katherine Albrecht but also broader issues of judicial integrity, domestic violence law application, and parental rights under the Fourteenth Amendment. The extensive procedural history, with its array of orders, hearings, and judicial actions, reflects the legal system's challenges in handling complex family and constitutional matters.

## STATEMENT OF CASE

### A. Background

Petitioner Dana Albrecht and Respondent Katherine Albrecht, once married and now divorced, have been locked in a complex legal struggle for over seven years across four states (New Hampshire, Massachusetts, California, and Michigan). Their dispute encompasses two primary issues: child custody and civil domestic

violence allegations, involving their four children: P.A. (24), C.A. (21), S.A. (18), and G.A. (15).

The case, "*In the Matter of Albrecht*," revolves around the Petitioner's appeal to the New Hampshire Supreme Court. This appeal followed the denial of his post-final-divorce-decree motion for contempt against the Respondent after a delay of more than 2 1/2 years in which no hearing was ever held. The Petitioner accused the Respondent of breaching their parenting plan by taking the children on a vacation without his consent and after misrepresenting to California police that she had sole custody.

The NH Supreme Court upheld the lower Circuit Court's decision, which concluded that the Respondent's actions did not constitute a willful violation of the parenting plan. The NH Supreme Court's review centered on the potential abuse of discretion by the Circuit Court. It dismissed the Petitioner's arguments on appeal as either irrelevant to the contempt motion or inappropriate for consideration in this context. The court recognized a delay in addressing the Petitioner's motion but rejected his argument that this delay was unconstitutional, stating he failed to demonstrate its effect on the case's outcome.

Significantly, the New Hampshire Supreme Court did not address the interrelation between this delay and a concurrent civil domestic violence (DV) proceeding. The trial court had postponed the Petitioner's parenting case for years without a hearing, giving precedence to the Respondent's civil DV case. This oversight in the NH Supreme Court's decision has been criticized and calls for its reconsideration have been made.

The child custody dispute, initially part of a New Hampshire divorce proceeding, has been further complicated by proven conflicts of interest. Former New

Hampshire judge Julie Introcaso, for instance, appointed her friend Kathleen Sternenberg as *Guardian ad Litem* for the children, despite a conflict of interest. Introcaso was later criminally charged and disbarred due to bias in several cases.

The civil DV case started in 2016 when the Respondent obtained a temporary DV Order of Protection against the Petitioner, which was eventually dismissed. The issuing judge was later convicted of a felony and disbarred. The case expanded under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) following the Respondent's relocation to California and then Michigan.

In November 2019, the Respondent secured a second civil DV Order of Protection. The Petitioner contends this was misused in their custody dispute. Further complications arose when Marital Master Bruce F. DalPra was disqualified for his misconduct in this case, leading to his immediate retirement.

The Petitioner asserts he is a peaceful individual who has never committed any violent act, and questions the validity of the DV laws applied against him, especially after a protective order was issued due to an incident where he attended the same church service as the Respondent and their children in Massachusetts, without any direct contact. Despite this, he has faced varying restrictions near the church and the Respondent's California and Michigan residences.

The Petitioner's request to amend the civil protective order to allow leaflet distribution near the Massachusetts church was denied, a decision upheld by the New Hampshire Supreme Court. Subsequently, the Respondent successfully extended the protective order before the Petitioner could respond. The Supreme Court did not comment on the merits of extending the protective order, despite the Petitioner's constitutional concerns.

This case stands in stark contrast to another New Hampshire case, where Judge Poly Hall did not issue a protective order despite evidence of severe abuse, resulting in plaintiff Lindsay Smith being brutally shot in the head by defendant Richard Lorman. An internal review by the New Hampshire Judicial Branch supported Judge Hall's decision.

In summary, the *Albrecht* case raises significant questions about the liberty interests for parents' fundamental liberty interest in their children's care, custody, and control under the Fourteenth Amendment articulated by *Troxel v. Granville*, 530 U.S. 57 (2000), when viewed in the light of Judge Ho's more recent opinion in *United States v. Rahimi*, 61 F. 4th 443,465-66 (2023), as well as other due process, equal protection, and First Amendment concerns.

It underscores the need for objective standards in the issuance and extension of civil DV protective orders, highlighting inconsistencies and the necessity for judicial review to uphold constitutional principles.

## **B. Lower Court Record – Procedural History**

**May 1, 2014:** GAL Kathleen Sternenberg and former NH Judge Julie Introcaso acknowledge a conflict of interest in court (*Sobell v. Sobell*, No. 659-2013-DM-00348).

**April 8, 2016:** Former Judge Paul S. Moore issues a civil domestic violence Order in *Albrecht v. Albrecht*.

**October 13, 2016:** Ms. Sternenberg appointed as *Guardian ad Litem* in *Albrecht v. Albrecht*.

**Before Oct. 13, 2016:** Marital Master Bruce F. DalPra and Julie Introcaso aware of the Sternenberg-Introcaso conflict since 2014.

**January 25, 2017:** Judge Introcaso approves fee increases for Ms. Sternenberg in *Albrecht v. Albrecht*.

**Before May 9, 2019:** Marital Master DalPra, Judges Introcaso, Derby, and King aware of the Sternenberg-Introcaso conflict.

**March 30, 2018:** Judge Introcaso emails Judge King about judicial review, discussing her friendship with Sternenberg.

**April 27, 2018:** Judge Introcaso expresses concerns to Judge King about the judicial evaluation process and potential conflicts.

**July 5, 2018:** Former Judge Paul S. Moore disbarred.

**March 12, 2019:** Judge Introcaso approves fee increases for Ms. Sternenberg in *Campbell v. Partello*, No. 659-2018-DM-00702.

**March 15, 2019:** Judge Introcaso recuses herself from *Campbell v. Partello*.

**April 23, 2019:** Judge Introcaso approves fee increases for Ms. Sternenberg in *Loudermilk v. Montgomery*, No. 659-2015-DM-00185.

**April 26, 2019:** Judge Derby issues an order involving Kathleen Sternenberg in *Campbell v. Partello*.

**May 9, 2019:** Trial court hearing in a parenting matter with Marital Master DalPra.

**May 30, 2019:** Judge Derby approves fee increases for Ms. Sternenberg despite known conflict, *Ausiaikova v. Meckel*, No. 659-2018-DM-00414.

**Sep. 16, 2019:** NH Supreme Court declines to review an appeal related to the May 9 hearing.

**Oct. 25, 2019:** NH Supreme Court denies a motion for rehearing of the Sep. 16 order.

**Oct. 31, 2019:** Petitioner's ex-wife files a false police report in Sierra Madre, CA.

**Nov. 1, 2019:** Petitioner files an *Ex Parte Motion* for parenting time, wherein no hearing was ever held, that took 2 1/2 years to decide, and that is the subject of the present appeal to the United States Supreme Court.

**Nov. 12, 2019:** Petitioner's ex-wife files a new civil domestic violence petition.

**Nov. 19, 2019:** Judge Derby denies Petitioner's *Motion to Consolidate* with the civil DV petition.

**Dec. 9-20, 2019:** Judge Derby holds a three-day trial in *Albrecht v. Albrecht* DV case.

**Dec. 30, 2019:** Judge Derby issues a civil DV order of protection against Mr. Albrecht in part because he did not have scheduled parenting time when he peacefully visited a Massachusetts church.

**Jan. 27, 2020:** Judge Derby denies Petitioner's *Motion to Modify* the civil DV order.

**Feb. 3, 2020:** Judge King's correspondence regarding Julie Introcaso and Mark Derby.

**Oct. 14, 2020:** NH Judicial Conduct Committee charges Judge Introcaso.

**Oct. 15, 2020:** Petitioner's ex-wife purchases a residence in East China, Michigan.

**Oct. 22, 2020:** Former NH Supreme Court Justice Gary Hicks comments on Ms. Introcaso to then NH Attorney General Gordon MacDonald, who is presently chief justice of the NH Supreme Court.

**Oct. 23, 2020:** Petitioner discovers Introcaso/Sternenberg conflicts for the first time through a newspaper article.

**Nov. 6, 2020:** Telephonic hearing reveals judicial misconduct by Master DalPra (“Who gives a f\*\*\*k?”).

**Nov. 6, 2020:** Mr. Albrecht orders a hearing transcript.

**Nov. 12, 2020:** eScribers, LLC refuses to transcribe Master DalPra’s misconduct.

**Nov. 13, 2020:** Judge King emails Master DalPra about omitted misconduct in the transcript.

**Dec. 21, 2020:** Judge Curran extends the civil DV order of protection based on the parenting case.

**Jan. 18, 2021:** Depositions of Judge Derby and Master DalPra regarding conflicts.

**Feb. 8, 2021:** Ms. Introcaso’s deposition reveals Master DalPra’s awareness of the Introcaso/Sternenberg conflict since 2014.

**Feb. 10, 2021:** JCC prepares exhibits on Judge Introcaso.

**Feb. 16, 2021:** NH Judicial Conduct Committee finds no misconduct by Master DalPra based on the first transcript.

**Feb. 19, 2021:** NH JCC issues a Summary Report against Judge Introcaso.

**Feb. 22, 2021:** Julie Introcaso resigns.

**Mar. 23, 2021:** NH Supreme Court finds Ms. Introcaso committed judicial misconduct.

**May 28, 2021:** NHJB General Counsel denies Petitioner access to key depositions.

**Jul. 15, 2021:** UCCJEA hearing in Michigan in Petitioner's family law case.

**Nov. 15, 2021:** Ms. Introcaso criminally sentenced via an Alford plea.

**Dec. 10, 2021:** NH Supreme Court orders a second version of the Nov. 6, 2020 Albrecht transcript.

**Dec. 16, 2021:** NH Supreme Court finds Petitioner's due process rights violated, No. 2021-0192.

**Dec. 17, 2021:** News story on Master DalPra's misconduct; he is removed from all family law cases.

**Jan. 18, 2022:** Testimony by Ms. Laura Montgomery before NH House Children and Family Law Committee.

**Feb. 15, 2022:** Nashua Police Officer Dunn reports on Albrecht transcript issues to NH AG's office.

**Feb. 25, 2022:** Ms. Introcaso emails Petitioner and is also disbarred.

**Apr. 22, 2022:** NH Department of Justice finds no evidence of transcript alteration by Master DalPra; does not investigate Judge King.

**Aug. 26, 2022:** Deposition of Judge King.

**Oct. 3, 2022:** NH Judicial Conduct Committee prepares exhibits on Master DalPra.

**Oct. 13, 2022:** Hearing before Judge Kevin Rauseo on jurisdiction in *Albrecht* parenting matter.

**Nov. 10, 2022:** NH Supreme Court finds Master DalPra committed judicial misconduct.

**Dec. 20, 2022:** Third version of Nov. 6, 2020 transcript docketed by NH Supreme Court.

**July 25, 2023:** NH Supreme Court Opinion issued, that is the subject of the present appeal to the United States Supreme Court.

#### **REASONS FOR GRANTING THE PETITION**

**I. The recent N.H. Supreme Court precedential *Opinion* directly contradicts the Fifth Circuit's *Opinion* in *Rahimi* concerning parenting rights, separate and distinct from any issues arising from Second Amendment concerns.**

While this Honorable Court is presently reviewing *Rahimi*, No. 22-915, its review is likely limited to whether 18 U.S.C. 922(g)(8), which prohibits the possession of firearms by persons subject to civil domestic-violence restraining orders, violates the Second Amendment on its face. A decision is still pending.

Petitioner opines that Judge Ho's concurring argument *also* addressing child custody in civil domestic violence proceedings is presently likely not the central issue before this Honorable Court as it reviews *Rahimi* in light of the Second Amendment.

Rather, *this* case concerns the Fourteenth Amendment and child custody, wherein the N.H. Supreme Court's *Opinion* directly contradicts the *Rahimi* opinion

on parenting rights that are protected under the Fourteenth Amendment. *Troxel v. Granville*, 530 U.S. 57 (2000).

The petitioner alleges that the N.H. Supreme Court's *Opinion* is a "textbook example" of a biased, unfair, or even farcical opinion pursuant to *Rahimi*. This creates inconsistency in the application of federal law between New Hampshire and the states under the Fifth Circuit (Texas, Louisiana, Mississippi), potentially necessitating U.S. Supreme Court intervention for resolution.

Judges, influenced by external pressures and sometimes lacking specialized training, may issue protective orders indiscriminately to avoid negative media scrutiny, neglecting substantial evidence and due process considerations. A notable example of this overreach is a case where a judge issued a restraining order against TV personality David Letterman based on an unsubstantiated harassment claim. *Colleen Nestler v. David Letterman*, No. D-0101-DV-200502772, 1st Jud. Dist. Ct., N.M. (December 15, 2005).

Here, however, this overreach extends to a state supreme court precedential opinion stating that "*for reasons that are not clear from the record*, the trial court did not schedule the November 2019 [parenting] contempt motion for a hearing or otherwise rule on it until 2022," when the reasons for the delay (a three day civil domestic violence trial!) are crystal clear from the record!

Petitioner opines that this also borders on the farcical, as did David Letterman's restraining order. However, because it is a precedential opinion of a state supreme court, it is also far more dangerous than the temporary trial court order against Mr. Letterman, later dismissed by that same trial court.

**II. This case presents the perfect vehicle for this Honorable Court to address Judge Ho's concurring opinion in *Rahimi*, separate and distinct from any issues arising from Second Amendment concerns.**

Unlike Mr. Zackey Rahimi, the petitioner maintains that he is non-violent, innocent, and has never committed or threatened any violent acts in his entire life. Despite this, the respondent has successfully obtained a civil domestic violence protective order against him, based solely on an incident from Sunday, November 3, 2019. On this day, the petitioner tried peacefully to attend a public church service in Dracut, Massachusetts, where he hoped to see his children. Both the respondent and their children were present at this church. The petitioner emphasizes that he had no interaction with the respondent on that day.

Furthermore, the petitioner claims that he has never been clearly informed about the specific actions that allegedly violated New Hampshire's Domestic Violence Statute. This is pertinent, especially considering the New Hampshire Supreme Court's affirmation that plaintiffs in New Hampshire domestic violence petitions are not required to specify which crimes under RSA 173-B:1 the defendant has allegedly committed. It is the defendant who is responsible for attempting to ascertain this, based on the facts presented by the plaintiff, as was the case here.

Consequently, the petitioner has been under a civil domestic violence protective order that has barred him from coming within 2,000 feet of the Massachusetts church, regardless of the fact that the respondent currently resides in Michigan and previously lived in California. This order has adversely affected the petitioner's parental rights. The New Hampshire court has consistently refused to conduct hearings on petitioner's requests for parenting time, all while continuing to entertain the respondent's requests to renew the protective order.

As a result, this case is an ideal opportunity for this Honorable Court to consider the implications of the *Rahimi* opinion for child custody determinations. This opinion suggests that trial court judges, possibly swayed by external pressures and lacking specialized training, may issue protective orders indiscriminately, sidestepping substantial evidence and due process. Moreover, these orders can be misused as both a weapon and a strategic tool in custody disputes, as noted in *Rahimi* at 465.

**III. Trial courts nationwide routinely issue (or deny) civil domestic violence orders of protection, yet there is no controlling nationwide Supreme Court opinion on whether objective standards are required under the Due Process and Equal Protection clauses.**

Between 960,000 and 3,000,000 alleged incidents of domestic violence are reported each year, while many other alleged incidents go unreported.<sup>1</sup> This Court, broadly speaking, has taken up the subject of “domestic violence” in the past.

See, e.g. *Voisine v. US*, 136 S. Ct. 2272 (2016), *Giles v. California*, 554 U.S. 353 (2008), *Davis v. Washington*, 547 U.S. 813 (2006).

However, it has remained silent concerning whether the federal Due Process Clause and Equal Protection Clause require that there be objective standards for issuing or denying civil orders of protection.

Meanwhile, New Hampshire appears to issue (or deny) civil orders of protection with no objective standards whatsoever.

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<sup>1</sup> U.S. Department of Justice, *Violence by Intimates: Analysis of Date on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends*, March 1998, available at <https://bjs.ojp.gov/content/pub/pdf/vi.pdf>

In a different New Hampshire civil domestic violence case, *Lindsay Smith v. Richard Lorman*, No. 641-2021-DV-00070, NH Circuit Court Judge Polly Hall presided over the trial but did not grant a final protective order, despite Lindsay Smith's detailed claims of physical and sexual abuse by Richard Lorman. This decision came into question following a tragic incident where Lorman brutally shot Smith in her head, garnering extensive media coverage.

In the New Hampshire family court, despite presenting substantial evidence of severe violence and sexual abuse, Smith's plea for a permanent civil restraining order was denied by Judge Hall on October 20, 2021. The judge concluded that Smith had not suffered abuse, leaving her without protection after the expiration of a temporary civil protective order.

The situation escalated on November 15, 2021, when Lorman, having recently acquired a pistol, attempted to kidnap and murder Smith at her workplace. He shot her multiple times, causing critical injuries that necessitated seven brain surgeries and an extended hospital stay.

An internal investigation by the New Hampshire Judicial Branch later affirmed Judge Hall's decision as aligning with state law and New Hampshire Supreme Court precedents, as noted in a report published on November 23, 2021.<sup>2</sup>

The *Smith v. Lorman* case led to the formation of the New Hampshire Domestic Violence Task Force by the New Hampshire Supreme Court, under the leadership of NH Supreme Court Justice Barbara Hanz-Marconi. The Task Force has publicly released its minutes and reports, including a final report dated March 1, 2022.<sup>3</sup>

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<sup>2</sup> Available at: [https://dvsas.com/nh/files/2021\\_11\\_23\\_Smith\\_v\\_Lorman\\_Report.pdf](https://dvsas.com/nh/files/2021_11_23_Smith_v_Lorman_Report.pdf)

<sup>3</sup> Available at: <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/inline-documents/sonh/task-force-on-domestic-violence-cases-in-the-new-hampshire-judicial-branch-report-to-the-new-hampshire-supreme-court.pdf>

On September 12, 2023, Lindsay Smith spoke before the New Hampshire House Special Committee on the Family Division of the Circuit Court, recounting her experience with domestic violence and the judicial system's shortcomings. She described the abuse from her former partner, Rick, and her unsuccessful effort to secure a restraining order in November 2021, which resulted in only a temporary order from Judge Hall. She criticized that her case was handled in civil court, despite the presence of threats and physical abuse evidence.<sup>4</sup>

Cindy Smith, Lindsay's mother, also gave testimony, advocating for systemic reforms in handling domestic violence cases. She criticized the judicial decision and the failure of the system to properly evaluate the danger posed by abusers.<sup>5</sup>

Just as Petitioner's case lends credence to Judge Ho's opinion on custody disputes, Ms. Smith's case *also* lends credence to Judge Ho's opinion that "Those who commit violence, including domestic violence, shouldn't just be disarmed — they should be detained, prosecuted, convicted, and incarcerated. And that's exactly why we have a criminal justice system — to punish criminals and disable them from engaging in further crimes." *Rahimi* at 463.

Consequently, action by this Honorable Court to directly address (and affirm!) Judge Ho's opinion will serve both to protect litigants who abuse the legal system to obtain a favorable custody ruling, and victims of legitimate abuse whom the legal system has failed.

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<sup>4</sup> Video is available online at: <https://www.youtube.com/watch?v=s0uV8vCq5-Y&t=504s>

<sup>5</sup> *Id.*

**IV. Action by this Court is necessary to restore public confidence in the integrity of the Judiciary.**

Further, this case has been hopelessly tainted by multiple instances of judicial misconduct. Two different former trial court judges (Paul S. Moore and Julie Introcaso) involved in this case were subsequently charged with felonies, on separate occasions, and one (Ms. Introcaso) for reasons related to this case, concerning her improper appointments of her close friend Kathleen Sternenberg as GAL. Both judges have subsequently been disbarred.

A third judicial officer, Marital Master Bruce F. DalPra was also disqualified by the New Hampshire Supreme Court for comments he made about this case (“who gives a f\*\*k”) and calling the parties’ children “a bunch of morons” and was also later found to have committed multiple violations of the NH Code of Judicial Conduct. Further, Master DalPra was also aware of the conflict of interest issues surrounding former judge Introcaso, since 2014, but failed to disclose them.

Petitioner further alleges that the Chief Administrative Judge of the New Hampshire Circuit Court, the Hon David D. King, made every effort deliberately to cover up Master DalPra’s misconduct and to ensure that any record of it was “scrubbed” from the relevant trial court transcripts.

On August 26, 2022, Judge King’s deposition was recorded. During this deposition, there was a notable exchange that suggests Judge King might have been untruthful under oath about his communications with the New Hampshire Judicial Conduct Committee. This is evident in the transcript of his deposition, where he was questioned about the Albrecht trial court transcript dated November 6, 2020:

12 Q: Did you tell the Judicial Conduct Committee?

13 A: Did I tell the Judicial Conduct Committee what?

14 A: About what you had found regarding the transcript in

15 the Albrecht case?

16 A: Yes.

The implication is that if Judge King had genuinely informed the New Hampshire Judicial Conduct Committee about his findings related to the transcript, it seems improbable that the Committee would have concluded on February 16, 2021, that there was “no reasonable likelihood of a finding of judicial misconduct” involving Master DalPra.

In any event, the New Hampshire courts failed fully to adhere to U.S. Supreme Court precedents on judicial impartiality. Even the perception of bias, regardless of actual bias, necessitates recusal to uphold due process. This principle is critical to ensuring that justice not only is fair but also appears fair. The situation in New Hampshire raises concerns of potential undisclosed conflicts of interest and inappropriate conduct, questioning whether their courts meet the constitutional requirement for impartial justice.

The trial court officer’s shockingly blunt comment (“who gives a f\*\*k?”) in this case starkly echoes Judge Ho’s perspective, highlighting how trial court judges often disregard a defendant’s constitutional rights when issuing civil restraining orders. Their approach is simple: evict the defendants with nothing but the clothes on their back, and then bid them farewell. Additionally, these judges tend to adopt the philosophy, “When in doubt, issue the restraining order.”

Consequently, restraining orders are frequently granted, leading to a high likelihood of courts issuing them automatically, even in the absence of genuine danger. A restraining order was granted merely because a husband expressed no love or attraction, despite there being no history of violence. In another farce, a judge issued a restraining order against David Letterman, finding his television appearances constituted harassment of plaintiff Colleen Nester. *See, e.g., Rahimi.*

Again, however, *at issue here is a precedential opinion of a state supreme court.* Such an opinion is nearly as farcical but far more dangerous than the temporary trial court order against Mr. Letterman, later dismissed by that same trial court.

**V. This case, and related cases, have received extensive media coverage, both state, and nationwide.**

This case, and related cases, have received extensive media coverage, both state, and nationwide in the New Hampshire Union Leader,<sup>6</sup> Associated Press,<sup>7</sup>

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<sup>6</sup> See, e.g. Hayward, Mark. *Foul-mouth family court master ordered off all cases.* New Hampshire Union Leader. December 17, 2021. Available at [https://www.unionleader.com/news/courts/foul-mouth-family-court-master-ordered-off-all-cases/article\\_702de15b-8680-5e0a-bc06-aabb6c8f3f8c.html](https://www.unionleader.com/news/courts/foul-mouth-family-court-master-ordered-off-all-cases/article_702de15b-8680-5e0a-bc06-aabb6c8f3f8c.html)

<sup>7</sup> See, e.g., *Judge who allegedly altered court paperwork resigns.* Associated Press. February 17, 2021, available at <https://apnews.com/article/new-hampshire-85394b3edfbe7c71e44a2f5efc981960>

Daily Beast,<sup>8</sup> WCVB5 Boston,<sup>9</sup> NBC10 Boston,<sup>10</sup> and internationally, in the Epoch Times.<sup>11</sup>

This coverage, *supra*, is representative, but by no means constitutes an exhaustive list. To obtain additional relevant articles, the reader is invited to “google it” – searches for the names of relevant (former) New Hampshire judicial officers, or the names of known victims – return numerous results, from reputable media sources.

Consequently, this case, and the associated related cases, are of significant public interest.

**VI. The Sixth Amendment guarantees a speedy trial in criminal cases, and this Court has long recognized parents' fundamental liberty interest in their children's care, custody, and control under the Fourteenth Amendment. However, there is limited case law on how or when courts should promptly consider this fundamental liberty interest in civil proceedings.**

There is no question that a criminal defendant enjoys a right to a speedy trial under the Sixth Amendment.

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8 Quinn, Allison. *Judicial Officer Sidelined From Divorce Case After Calling Kids a 'Bunch of Morons.'* The Daily Beast. December 17, 2021. Available at <https://www.thedailybeast.com/new-hampshire-judicial-officer-sidelined-from-divorce-case-after-calling-kids-a-bunch-of-morons>

9 WCVB5 Boston. *New questions about denied protective order as woman fights to survive after failed murder-suicide.* November 17, 2021. Available at <https://www.wcvb.com/article/questions-about-denied-protective-order-after-woman-shot/38282248>

10 NBC10 Boston. *Review Finds Denial of Restraining Order to Woman Shot by Ex-Boyfriend 'Reasonable.'* November 30, 2021. Available at <https://www.nbc10.com/news/local/review-finds-decision-to-deny-restraining-order-to-woman-shot-by-ex-boyfriend-was-reasonable/2578544/>

11 Giordano, Alice. *New Hampshire Family Courts Likened to the Mafia.* The Epoch Times. February 25, 2022. Available at [https://www.theepochtimes.com/new-hampshire-family-courts-likened-to-the-mafia\\_4302920.html](https://www.theepochtimes.com/new-hampshire-family-courts-likened-to-the-mafia_4302920.html)

What, though, of civil cases wherein there are allegations of domestic violence?

And, if parents enjoy a fundamental liberty interest in their children's care, custody, and control under the Fourteenth Amendment (*Troxel v. Granville*, 530 U.S. 57 (2000)), is it constitutional for a trial court to go years without holding any hearing on a request for enforcement of a child custody decree?

Petitioner opines that what *might* appear "obvious" to the common man – that *somehow*, it *ought to be* "unconstitutional" for a family court to delay (for years!) any hearing on an enforcement of a custody decree – is not in the least "obvious" to any average family law practitioner. Rather, the issue is complex.

This complexity is highlighted by a different federal civil case wherein the underlying dispute had nothing to do with parenting, but delay caused by conflicts of interest was addressed by the court.

In the case of *Long Beach Unified Sch. Dist. v. Santa Catalina Island Co.*, No. 2:19-cv-01139-MEMF-AS, (C.D. Cal. Dec. 27, 2023), a law firm representing the City of Avalon was disqualified due to a conflict of interest, after it had engaged in extensive litigation and discovery. The firm had been representing the City since 2012, but its prior representation of the District in 2006-2007 created a conflict. The disqualification motion was filed in January 2022, just before the trial.

The Central District of California court assessed the City's claim of unreasonable delay in the motion. It emphasized that delay alone doesn't guarantee the denial of a disqualification motion; significant prejudice due to the delay is required. The court's criteria for assessing unreasonable delay includes the litigation stage and the case's complexity. The court found that neither the litigation stage nor the complexity warranted a finding of unreasonableness. It also considered whether the

City would face extreme prejudice due to the delay, noting the City's right to its chosen lawyer and the firm's deep understanding of the case. However, with no immediate trial date, the City had time to find new counsel.

The court then examined whether the District justified the delay. It concluded that the District wasn't on notice of the conflict until 2021, thus rejecting the argument that earlier correspondence should have triggered earlier action. The District's motion, filed shortly after recognizing the conflict, was not considered unreasonably delayed.

This case highlights that claims of unreasonable delay in disqualification motions require a nuanced, fact-specific analysis. Factors include the ability to demonstrate unreasonable delay, the litigation stage, the case's complexity, the potential for extreme prejudice, and the time taken to act upon recognizing a conflict.

Consequently, any "extension" of the reasoning already offered by this Honorable Court in *Troxel*, to include "how long it ought to take" for a court to enforce parents' fundamental liberty interest in their children's care, custody, and control under the Fourteenth Amendment articulated by *Troxel* (and why!), is most certainly warranted here.

## **VII. The decisions below are wrong, and deeply disturbing.**

The original protection order against the Petitioner, favoring an Independent Fundamentalist Baptist (IFB) church in Massachusetts, was likely unconstitutional under the First and Fourteenth Amendments. It restricted the Petitioner's proximity to the church and activities like leafleting, even when the Respondent was absent or in another state, allegedly infringing on First Amendment rights. The

New Hampshire Supreme Court never clarified the state's compelling interest in regulating the Petitioner's activities in Massachusetts, nor how that aligned with constitutional constraints. Both parties have a history of First Amendment activity, with the Respondent previously winning a related settlement (*Albrecht v. Metropolitan Pier and Exposition Auth.*, 338 F. Supp. 2D 914 (2004)) and the Petitioner engaging in peaceful protests. The Petitioner previously attempted to challenge the order's vagueness and the lack of specificity in allegations of domestic violence statute violations. However, the New Hampshire Supreme Court has declined to form any opinion on Petitioner's arguments, or even on the trial court's underlying motion to extend the order. See December 16, 2021 *Order*, No. 2021-0192.

However, judicial decisions may not "contain only an abstract conclusion of law" when a party is "shooting in the dark" and "trying to guess at what may be an issue." See *Longshoremen v. Philadelphia Marine Trade Assn.*, 389 U.S. 64 (1967). A court must frame its orders so that those who must obey them will know what the court intends to require and what it means to forbid. See *Id.*

Further, neither the New Hampshire Supreme Court's orders, nor New Hampshire's "Domestic Violence" statutory framework itself, can be unconstitutionally vague, or either risks being struck down by this Court. See, e.g., *Papachristou v. Jacksonville*, 405 U.S. 156 (1972) (striking down a vagrancy ordinance); *Kolender v. Lawson*, 461 U.S. 352 (1983) (finding excessive discretion to the police to be unconstitutionally vague); *FCC v. Fox Television Stations, Inc.* 567 U.S. 239 (2012) (invalidating fines for obscene language on vagueness grounds); *Johnson v. United States*, 576 U.S. 591 (2015) (finding that individuals are unconstitutionally deprived of due process when they are convicted under laws

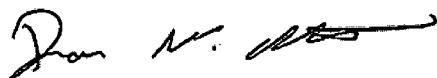
so vague that they fail to give ordinary people fair notice of the conduct they punish); and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018) (holding that the residual clause in the Immigration and Nationality Act was unconstitutionally vague).

Insofar as the New Hampshire Supreme Court has subsequently issued a precedential opinion completely ignoring that the trial court delayed Petitioner's parenting case for years without any hearing *at all*, in favor of *instead* allowing Respondent to litigate her civil DV case with multiple days of hearings, this opinion should now be overturned.

### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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January 29, 2024

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