

No. 24-6570

IN THE  
SUPREME COURT OF THE UNITED STATES

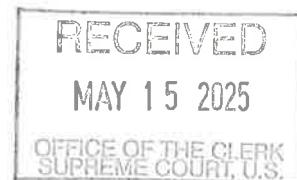
ANDREW JEFFERY HELMIN,  
PETITIONER,

VS.

YUEMIN XU,  
RESPONDENT.

ON PETITION FOR REHEARING OF THE  
DENIAL OF A PETITION FOR A  
WRIT OF CERTIORARI TO  
THE MINNESOTA SUPREME COURT  
PETITION FOR REHEARING

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## INTRODUCTION AND STATEMENT OF THE CASE

Pursuant to Rule 44 of the Rules of this Court, Petitioner respectfully petitions for rehearing of the Court's order denying certiorari entered on April 21, 2025.

This case raises significant constitutional questions regarding the Fourteenth Amendment's guarantees of substantive due process, procedural due process, and equal protection, particularly where substantiated child abuse findings have been disregarded by state courts in favor of international relocation to a non-Hague Convention country.

Petitioner asserts that the Court may have overlooked or misapprehended substantial constitutional principles and public policy concerns that warrant reconsideration.

## GROUND FOR REHEARING

### 1. Substantive and Procedural Due Process Violations

Petitioner raised critical issues involving the violation of fundamental parental rights under the Fourteenth Amendment. The Minnesota courts disregarded substantiated findings of child abuse, denied Petitioner a meaningful evidentiary hearing, and ordered international relocation despite the clear constitutional requirement that parental rights not be abridged without heightened judicial scrutiny.

This Court's precedents, including *Troxel v. Granville*, 530 U.S. 57 (2000), establish that parental rights are fundamental and require rigorous constitutional protection. This principle is reinforced throughout the Court's due process jurisprudence, demanding individualized scrutiny and procedural safeguards before infringing the parent-child relationship.

### 2. State-Created Danger Doctrine

Petitioner respectfully submits that the lower courts' actions not only failed to protect constitutional rights but affirmatively created an increased risk of harm to both Petitioner and the

minor child. Under the “state-created danger” doctrine recognized in federal appellate courts, government actors who knowingly increase an individual’s exposure to private dangers may violate substantive due process. Here, the state courts had direct knowledge of substantiated findings of physical child abuse by Respondent.

Nevertheless, they authorized international travel to China, a non-Hague Convention country where U.S. custody orders are unenforceable, without imposing enforceable safeguards. This action not only created a substantial risk of permanent deprivation of Petitioner’s constitutional parental rights but also placed the minor child at heightened risk of abuse beyond the reach of U.S. legal protections.

### **3. Irreversible Loss of Constitutional Rights**

The risk of permanent removal of the child to a jurisdiction that does not recognize U.S. custody orders creates an unrecoverable injury to Petitioner’s fundamental parental rights. Without Hague Convention protections or enforceable treaty obligations, Petitioner faces the prospect of irreversibly losing contact with his child, without the possibility of legal remedy. This permanent constitutional deprivation underscores the necessity for this Court’s intervention.

### **4. Current International Conditions Heighten Constitutional Risk**

Petitioner respectfully submits that the Court may have overlooked the real-world impact of current international conditions in evaluating the constitutional risks presented by this case. The United States’ relationship with China has materially deteriorated, as evidenced by escalating trade disputes, national security tensions, and diplomatic strain, which continue to intensify.

China’s status as a non-signatory to the Hague Convention on the Civil Aspects of International Child Abduction, combined with the ongoing decline in U.S.–China relations,

significantly increases the risk that Petitioner's fundamental parental rights will be permanently extinguished without effective legal remedy once international relocation occurs.

Given these escalating conditions, the risk of irreparable constitutional harm to Petitioner is not speculative but immediate and substantial, warranting reconsideration of the denial of certiorari.

#### **4. National Importance and Public Policy Urgency**

Given the increasing globalization of family structures and the corresponding rise in international custody disputes involving non-Hague Convention nations, this case presents issues of exceptional national importance.

Without clear constitutional protections enforced at the highest level, American parents face the risk of losing their children permanently through judicial orders that disregard fundamental rights.

This Court's intervention is necessary to prevent a growing constitutional crisis in international family law matters.

#### **5. Potential Inconsistency Among Lower Courts**

Petitioner further submits that lower courts across the nation have approached the intersection of parental rights, child safety, and international relocation inconsistently, particularly where non-Hague Convention countries are involved.

This inconsistency justifies rehearing to provide national uniformity and guidance on the constitutional safeguards required in such cases.

### **SUPPLEMENTAL GROUNDS FOR REHEARING**

Petitioner respectfully submits that additional constitutional principles and intervening real-world conditions further warrant rehearing of the denial of certiorari.

## **A. Heightened Due Process Protections for Parental Rights**

The Court has long recognized that parental rights are fundamental liberty interests under the Fourteenth Amendment. See *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982); *Stanley v. Illinois*, 405 U.S. 645 (1972).

Before the State may interfere with or undermine these rights, it must apply heightened due process protections, including a burden of proof greater than mere preponderance and rigorous judicial scrutiny.

In the present case, the Minnesota courts authorized international travel of Petitioner's minor child to China, a non-Hague Convention country, without applying the constitutionally required standards to protect family integrity, despite substantiated findings of abuse against the Respondent.

Because the lower court failed to apply the heightened due process standards this Court has long required in matters of parental rights, reconsideration is both warranted and necessary to prevent further constitutional harm.

## **B. Immediate and Irreversible Constitutional Injury**

Although the proposed travel is framed as temporary, the practical constitutional risk is immediate and irreversible.

In the absence of enforceable international agreements or reliable judicial mechanisms to ensure the child's return from China, even temporary international travel creates an unacceptable and irreparable risk of permanent deprivation of Petitioner's parental rights.

China's known resistance to recognizing or enforcing U.S. custody orders further exacerbates this risk.

Once the child is removed to China, Petitioner would have no realistic legal avenue to recover custody or maintain his parental relationship, causing a permanent constitutional injury contrary to this Court’s due process jurisprudence.

### **C. Escalating International Tensions Heighten Constitutional Risks**

Petitioner further submits that deteriorating U.S.–China relations magnify the urgency and gravity of the constitutional violations at issue. Recent escalations in trade disputes, diplomatic tensions, and national security concerns, including the expansion of China’s anti-espionage laws targeting ordinary civil activities, materially worsen the likelihood that Petitioner’s constitutional rights could be permanently lost once international travel occurs.

Given these developments, it is unrealistic to expect meaningful cooperation or enforcement of U.S. court orders in China, rendering the constitutional risk not speculative but immediate and substantial.

### **D. Broader National Importance**

Finally, Petitioner submits that this case implicates an issue of growing national and constitutional importance. In an increasingly interconnected world, the lack of enforceable protections for U.S. parents facing international travel to non-Hague Convention countries like China threatens to erode the substantive due process rights of countless American families.

Without clear constitutional guidance, state courts may continue to authorize international travel that places fundamental parental rights at grave and permanent risk. This Court’s review is urgently needed to ensure that American parental rights are not left defenseless in an increasingly complex and hostile international environment.

## **E. Unequal Application of Due Process Protections**

Petitioner respectfully notes the inconsistency between the Court's recognition of due process protections in other contexts such as for non-citizens facing immigration-related consequences and the denial of those same protections in the present case, where Petitioner, a U.S.-born citizen, faces permanent loss of his parental rights.

This Court has held that non-citizens within U.S. jurisdiction are entitled to procedural safeguards before facing deportation or detention. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001). Yet here, where the consequences are no less severe, namely, the permanent loss of a fundamental parental relationship the state courts authorized international travel without applying any heightened due process standard.

Petitioner submits that constitutional protections must apply at least as fully to U.S. citizens facing the permanent loss of family integrity as they do to individuals facing immigration-related proceedings. To deny such protections in this case reflects an inconsistent and unequal application of the Constitution's most basic guarantees and warrants this Court's reconsideration.

## **F. Structural Disparities in Due Process Protections**

Petitioner respectfully submits that the constitutional protections afforded in family law proceedings, especially where international travel places fundamental rights at risk, are dangerously inadequate when compared to other areas of law involving potential deprivation of liberty.

The procedural safeguards applied in criminal, immigration, and civil commitment contexts consistently exceed those provided to Petitioner here. Yet the consequence at issue, the

loss of a parent-child relationship, is arguably more profound and irreversible than any faced in those other domains.

Applying the *Mathews v. Eldridge* balancing test, Petitioner's case involves an extremely weighty interest, a high risk of error due to ignored abuse findings and lack of meaningful evidentiary hearing, and only a minimal state interest in authorizing discretionary international travel.

The constitutional imbalance between this case and other due process contexts is inconsistent with this Court's precedent and warrants reconsideration.

#### **G. Due Process Protections Recognized in Less Severe Contexts**

The Court has recognized robust due process protections even in contexts involving comparatively minor deprivations. In *Goss v. Lopez*, 419 U.S. 565 (1975), a 10-day school suspension triggered due process protections. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Court required a hearing before terminating public benefits.

In *Turner v. Rogers*, 564 U.S. 431 (2011), a parent facing civil contempt over unpaid child support was held to be entitled to meaningful procedural protections. And in *In re Gault*, 387 U.S. 1 (1967), the Court extended full due process rights to juveniles facing delinquency adjudication.

Petitioner respectfully asserts that the permanent loss of a child through international travel, especially where no enforceable return safeguards exist and substantiated abuse findings have been ignored, demands heightened constitutional scrutiny. Such circumstances present one of the most compelling cases for the application of due process. The Constitution must apply with equal or greater force when family integrity and parental rights are at stake.

## ARGUMENT SUMMARY

This case presents grave and urgent constitutional questions under the Fourteenth Amendment concerning substantive due process, procedural due process, and the fundamental right to family integrity.

Petitioner has shown that the state court authorized international travel to China despite substantiated findings of child abuse. This decision, made without any enforceable return safeguards, creates an immediate and irreversible risk of permanently depriving Petitioner of his parental rights.

Although framed as temporary travel, the lack of enforceable legal remedies upon removal to a non-Hague Convention country transforms this action into a functional termination of Petitioner's constitutional rights. China's refusal to recognize U.S. custody orders, coupled with deteriorating diplomatic conditions, compounds the danger.

This Court has extended meaningful due process protections in far less consequential cases including school suspensions, welfare benefits, and civil contempt proceedings. Yet here, a U.S.-born citizen parent faces permanent constitutional loss with fewer safeguards than those offered to non-citizens in immigration proceedings. Such an asymmetrical application of constitutional rights is inconsistent with this Court's precedent and warrants correction.

Finally, this case implicates growing national concerns. In an increasingly globalized society, the absence of federal oversight and constitutional clarity in cross-border custody matters risks leaving American parental rights unprotected in foreign jurisdictions beyond U.S. reach.

Petitioner respectfully urges the Court to grant rehearing and address these substantial and unaddressed constitutional harms.

## REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court grant this Petition for Rehearing, vacate the order denying certiorari, and review the Petition for Writ of Certiorari on its merits.

Respectfully submitted,

 5/13/2025

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## **Certificate of Counsel**

Pursuant to Rule 44.1 of the Rules of the Supreme Court of the United States, I hereby certify that this Petition for Rehearing is presented in good faith and not for delay, and that the grounds for rehearing are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.



5/13/2025

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RESPONDENT.

**PROOF OF SERVICE**

I, Anne Beaulieu, do swear or declare that on this date,  
May 13, 2025, as required by Supreme Court Rule 29 I have served the  
enclosed:

1. PETITION FOR REHEARING

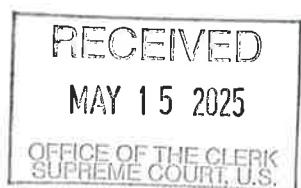
on each party to the above proceeding or that party's counsel, by depositing an envelope  
containing the above documents in the United States mail, properly addressed to each of them  
with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery  
within 3 calendar days.

Additionally, as required, the Minnesota Attorney General's Office was served via personal hand  
delivery at the following address, in accordance with their policy of not accepting service by  
mail:

The Office of Minnesota Attorney General Keith Ellison  
445 Minnesota Street, Suite 600  
Saint Paul, MN 55101

The following parties were served by U.S. Mail, as permitted under Supreme Court Rule 29:

1. Respondent's Attorney  
Debra J. Hilstrom  
Debra J Hilstrom Attorney at Law, PLLC  
525 Park Street, Ste 520



St. Paul, MN 55103

Served via United States Postal Service, First-Class Mail

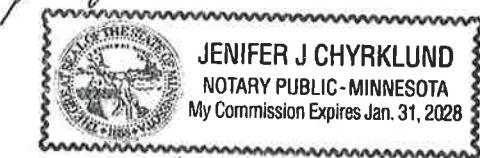
2. Dakota County Attorney's Office  
Dakota County Attorney  
1560 Hwy 55  
Hastings, MN 55033  
Served via United States Postal Service, First-Class Mail
3. Office of the Solicitor General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001  
Served via United States Postal Service, First-Class Mail
4. Office of the President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500  
Served via United States Postal Service, First-Class Mail
5. Office of the Vice President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500  
Served via United States Postal Service, First-Class Mail
6. United States Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001  
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 13, 2025



(Signature)



*Exp 01/31/2028*

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