ORIGINAL

No. 24-7196

IN THE

Supreme Court of the United States

Jacob Bellinsky,

Petitioner,

v.

Rachel Zinna Galán,

Respondent.

On Extraordinary Habeas Corpus Appeal
to the Colorado Supreme Court

PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX

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Revised Petition May 5, 2025: This petition, addressing the Colorado Supreme Court's denial of habeas corpus appeal in case 2024SA214, was originally filed on March 18, 2025 and revised on March 31, 2025 as part of a combined petition addressing both this case (2024SA214) and 2024SC691. Following the Clerk's April 8, 2025 instruction, these matters are now presented as separate petitions filed contemporaneously. This petition is filed alongside related petition arising from Colorado Supreme Court case 2024SC691, which addresses complementary criminal case aspects of the same underlying constitutional violations. The Court's consideration of both petitions together would provide comprehensive resolution to the persistent circuit splits regarding habeas default procedures, void judgments, and procedural protections for fundamental constitutional rights.

QUESTIONS PRESENTED

This petition addresses: (1) the refusal to grant mandatory relief from void judgments under C.R.C.P. Rule 60(b)(3) and its federal counterpart 60(b)(4), and (2) the denial of habeas corpus relief. Petitioner, a father of eight, has been prosecuted for a four-word text ("Have [daughter] call me") and unlawfully separated from his children for years. Although properly invoking Rule 60(b) and habeas relief, Colorado courts have refused to address his claims, acknowledge defaults, or vacate void orders—violating protections in the First, Fifth, and Fourteenth Amendments.

The questions presented are:

1. Whether the Suspension Clause, 28 U.S.C. § 2248, and Rule 8(d) require courts to accept as true habeas allegations that respondents fail to traverse or otherwise admit by failure to deny—granting relief when petitions present prima facie evidence of constitutional violations—resolving the circuit conflict between courts treating such admissions as legally dispositive versus those permitting summary denial without opinion despite established constitutional infirmities.

2. Whether, following *Loper Bright Enterprises*, courts must independently scrutinize claims that civil protection orders are void due to fraud and religious discrimination, rather than deferring to lower court determinations when fundamental parent-child relationships and constitutional liberties are at stake.

3. Whether due process requires enforcement of Rule 60(b)'s mandatory relief from void judgments when courts refuse to vacate void orders procured through fraud upon the court and deprivations of rights, creating a direct conflict with decisions from multiple circuits holding such relief is "not discretionary."

PARTIES TO THE PROCEEDINGS BELOW

Petitioner is Rabbi Jacob Bellinsky, the petitioner in Elbert County District Court extraordinary Petition for Writ of Habeas Corpus case (2024CV5) and the petitioner in Colorado Supreme Court Habeas Corpus Extraordinary Appeal case (2024SA214). Respondents are Rachel Zinna Galán (Petitioner's former spouse and Respondent in 2024CV5/2024SA214) and the People of the State of Colorado, represented by Elbert County District Attorneys. This petition is filed contemporaneously with a related petition arising from case 2024SC691, which addresses complementary aspects of the same underlying constitutional violations in criminal proceedings.

LIST OF RELATED CASES

Colorado Supreme Court

Case No.	Case Name/Case Description	Status/Date
2025SA97	*Bellinsky v. Elbert County Court, Chief Judge Ryan Stuart, Senior Judge Dinsmore Tuttle, and The People of the State of Colorado* Petition Pursuant to C.A.R. 21 (Relief Sought for Senior Judge Recusal in 22M143 and Void Orders in Underlying Cases) [Pursuant to Rule 60(b) Relief] (Colo. S. Ct., Pending)	Filed: 04-07-25 **Status: Pending**
2024SA214	*Bellinsky v. Galán* Extraordinary Appeal of Denial of Habeas Corpus Relief from Elbert County District Case 2024CV5 (Colo. S. Ct., 2025)	Filed: 07-19-24 **Denied: 02-21-25**

2024SC691	*Bellinsky v. The People of the State of Colorado* Petition for Writ of Certiorari to Elbert County District Court Case 2024CV2 (Colo. S. Ct., 2025)	Filed: 10-31-24 **Denied: 01-13-25**
2024SA228	*Bellinsky v. The People of the State of Colorado* Criminal Conviction Appeal of Case 2024CV2 [Pursuant to Rule 60(b) Relief] (Colo. S. Ct., 2024)	Filed: 08-09-24 **Denied: 09-13-24**
2023SA223	*Bellinsky v. Polis, Boatright, Fenberg, & McCluskie* Emergency Sworn Petition for Extraordinary Relief Pursuant to Colorado's Constitution [Rule 60(b) Relief in 2015DR7, 2022C59, 2022M143, 2022M152, et al.] (Colo. S. Ct., 2023)	Filed: 09-01-23 **Denied: 09-15-23**
2022SA274	*Bellinsky v. Galán, Polis, Boatright, Pilkington, Fenberg, & Garnett* Emergency Petition & Demand for Full Redress & Other Extraordinary Relief Due [Pursuant to USA & Colorado Constitutions & Rule 60(b) Relief in 2015DR7, et al.] (Colo. S. Ct., 2022)	Filed: 08-22-22 **Denied: 08-23-22**
2022SA274	*Bellinsky v. Galán, Polis, Boatright, Pilkington, Fenberg, & Garnett* Petition for Responses & Adjudication on the Merits of Subject Matter of Original Petition & Demand for Full Redress and Other Extraordinary Relief Due [Rule 60(b) Relief in 2015DR7] (Colo. S. Ct., 2022)	Filed: 08-31-22 **Denied: 09-01-22**
2021SA245	*Bellinsky v. Galán* Petition Pursuant to C.A.R. 21 (Extraordinary Relief Sought for Underlying Void Orders in 2015DR7) (Colo. S. Ct., 2021)	Filed: 08-09-21 **Denied: 08-12-21**

Colorado Court Of Appeals

Case No.	Case Name/Case Description	Status/Date
2024CA355	*Bellinsky v. Galán* Extraordinary Appeal of Void Orders on Relocation of Minor Children in 2015DR7 (Colo. Ct. App.)	Filed: 03-01-24 **Status: Pending** (Absent Jurisdiction)
2024CA328	*Bellinsky v. Galán* Extraordinary Pre-Appeal of Conviction for Alleged Violation of 2022C59 PO in 2022M143 (Colo. Ct. App., 2024)	Filed: 02-21-24 **Denied: 02-28-24**
2021CA634	*Bellinsky v. Galán* Appeal of Post-Decree Orders in 2015DR7 (Colo. Ct. App., 2022)	Filed: 05-04-21 **Opinion: 08-04-22** (Withdrew Consent - Absent Jurisdiction)
2021CA1062	*Bellinsky v. Galán* Appeal of Post-Decree Orders in 2015DR7 (Colo. Ct. App., 2022)	Filed: 07-19-21 **Opinion: 08-04-22** (Withdrew Consent - Absent Jurisdiction)

Colorado County & District Courts

Case No.	Case Name/Case Description	Status/Date
2024CV5	*Bellinsky v. Galán, et al.* Forthwith Verified Petition for Writ of Habeas Corpus [Pursuant to State and Federal Constitutions and Our Laws and Precedence Made in Pursuance Thereof] (Colo. Elbert Co. District Court, 2025)	Filed: 06-07-24 **Denied: 07-10-24**
2024CV2	*Bellinsky v. The People of the State of Colorado,* (Appeal of Conviction in 22M143) (Colo. Elbert Co. District Court, 2025)	Filed: 04-15-24 **Denied: 09-25-24** (Opinion-Affirmed)
2022M143	*The People of the State of Colorado v. Bellinsky,* (Alleged Violation of Protection Order Case) (Colo. Elbert County Court, 2024)	Filed: 11-28-22 **Closed: 04-08-24**

2022M152	*The People of the State of Colorado v. Bellinsky*, (Alleged Violation of Protection Order Case) (Colo. Elbert County Court, 2023)	Filed: 11-29-22 **Closed: 04-26-23**
2022C59	*Galán v. Bellinsky* (Civil Protection Order Case in Connection with 2015DR7 – Obtained by Fraud and Perjury) (Colo. Elbert County Court, 2022)	Filed: 09-26-22 **Closed: 10-07-22**
2022C36810	*Hart v. Bellinsky* (Civil Protection Order Case in Connection with 2015DR7 – Obtained by Fraud and Perjury) (Colo. Jefferson Co. District Court, 2022)	Filed: 08-31-22 **Closed: 09-08-22**
2015DR7	*Bellinsky v. Galán* Dissolution of Marriage - Domestic Relations (Colo. Gilpin Co. District Court)	Filed: 04-13-15 **Status: Void** (Absent Jurisdiction)

United States District Court For The District Of Colorado

Case No.	Case Name/Case Description	Status/Date
1:23-cv-03461	*Bellinsky v. Galán, et al.* (Civil Rights Complaint –18JD False Criminalization Crime Sprees) (D. Colo., 2024)	Filed: 12-30-23 **Dismissed: 08-23-24**
1:23-cv-03163	*Bellinsky v. Galán, et al.* (Civil Rights Complaint – Relocation of Minor Children Crime Spree) (D. Colo., 2024)	Filed: 11-29-23 **Dismissed: 08-23-24**
1:23-cv-01799	*Galán v. Bellinsky* (Removal of State Court Action in 2015DR7) (D. Colo., 2023)	Filed: 07-17-23 **Dismissed: 11-21-23**

United States Court Of Appeals For The Tenth Circuit

Case No.	Case Name/Case Description	Status/Date
No. 24-1352	*Bellinsky v. Galán, et al.* (Appeal of 1:23-cv-03461 Civil Rights Complaint –18JD False Criminalization Crime Sprees) (10th Cir., pending)	Filed: 09-10-24 **Status: Pending**
No. 24-1351	*Bellinsky v. Galán, et al.* (Appeal of 1:23-cv-03163 Civil Rights Complaint – Relocation of Minor Children Crime Spree) (10th Cir., pending)	Filed: 09-10-24 **Status: Pending**
No. 23-1409	*Bellinsky v. Galán, et al.* (Appeal of 1:23-cv-01799 State Court Removal Action of 2015DR7) (10th Cir., 2024)	Filed: 12-27-23 **Dismissed: 01-26-24**

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This case[1] exemplifies systemic failure to enforce mandatory relief from void judgments despite binding precedent in the Tenth Circuit establishing that such relief "is not discretionary; it is mandatory." *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994). The questions presented address both the systematic refusal to vacate void orders and the denial of constitutionally guaranteed habeas corpus relief despite respondent's multiple defaults—issues that strike at the foundation of due process, religious liberty, and the rule of law.

For decades, courts have been divided on two fundamental questions: (1) whether void orders may be enforced against parties who have been systematically denied meaningful opportunity to challenge them, despite the mandatory nature of Rule 60(b) relief; and (2) whether habeas corpus relief may be denied without opinion, despite a respondent's multiple defaults admitting all material facts.

This case involves a protection order secured through documented fraud, procured during Jewish High Holy Days despite advance notice, obtained as part of a broader conspiracy to continue to separate Petitioner from his children, and shielded from meaningful challenge through coordinated procedural obstacles. This void order, along with all the void orders underlying it, has been used to criminally prosecute Petitioner for a four-word text message ("Have [daughter] call me")—an essential parental communication—and to completely separate him from his eight

[1] This petition, addressing the Colorado Supreme Court's denial of habeas corpus appeal in case 2024SA214, is filed contemporaneously with a related petition arising from case 2024SC691, which addresses complementary criminal case aspects of the same underlying constitutional violations. The Court's consideration of both petitions together would provide comprehensive resolution to the persistent circuit splits regarding habeas default procedures, void judgments, and procedural protections for fundamental constitutional rights.

children for years, including preventing him from observing his son's bar Mitzvah in June of 2022 and attending his daughter's wedding in September of 2024.

As established in *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, fraud upon the court creates a severe infirmity that "is a matter far more fundamental than injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public." 322 U.S. 238, 246 (1944). When such fraud exists, as repeatedly proven here, no statute of limitations restricts courts' inherent authority to remedy corrupted orders. *Id.* at 244-45.

Despite properly invoking Rule 60(b) in 2022 in the underlying case 2015DR7, presenting overwhelming evidence of the void nature of multiple orders, and respondent's multiple defaults in habeas proceedings in 2024-2025, courts at every level of the Colorado judicial system have refused to grant the mandatory relief required by law. This case presents a particularly egregious example of systemic failure, as Petitioner's properly invoked Rule 60(b) motion was denied at every level of the Colorado judiciary—by Judge Todd L. Vriesman (who mischaracterized it as a mere "Reconsideration Motion" and struck it from the record), by Chief Judge Jeffrey R. Pilkington (who declined to correct this error), and by former Chief Justice Brian D. Boatright and the Colorado Supreme Court (See 2022SA274 and 2023SA223)—all refusing to grant relief despite the mandatory nature of relief from void judgments.

Similarly, after filing a comprehensive 53-page "Extraordinary Habeas Corpus Appeal Brief" documenting Respondent's default and constitutional violations and subsequent default in the extraordinary appeal 2024SA214, the

Colorado Supreme Court once again denied mandatory relief months later with a one-line order devoid of any findings or analysis.

This coordinated pattern of denial across multiple levels of the judiciary presents a critical question about enforcement mechanisms when courts abdicate their constitutional duty to vacate void judgments, particularly when those judgments form the basis for criminal prosecutions and cause irreparable harm to parent-child relationships.

This Court's intervention is urgently needed not only to remedy the manifest injustice to Petitioner and his eight children but also to resolve persistent confusion over the enforceability of void orders and the proper treatment of default in Rule 60(b) motions and habeas corpus proceedings. Resolving these issues would provide much-needed guidance to courts nationwide, establishing clear standards for mandatory relief from void orders, ending geographic disparities in constitutional protections, and ensuring that religious observance receives consistent accommodation in judicial proceedings.

OPINIONS BELOW

The Colorado Supreme Court's denial of Petitioner's Extraordinary Habeas Corpus Appeal (Case No. 2024SA214, February 21, 2025) is Appendix B. The Elbert County District Court's opinion denying Petitioner's habeas corpus petition (Case No. 24CV5, July 10, 2024) is Appendix D. This petition is filed contemporaneously with a related petition addressing the Colorado Supreme Court's order denying Petitioner's Writ of Certiorari (Case No. 2024SC691, January 13, 2025), attached as Appendix A in that petition, and the Elbert County District Court's opinion denying

Petitioner's appeal of conviction (Case No. 2024CV2, September 25, 2024) is Appendix C.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a). Pursuant to Rule 12.4, this petition primarily seeks review of the Colorado Supreme Court's denial of habeas corpus appeal (2024SA214) on February 21, 2025. This petition is filed within 90 days of that denial. A related petition addressing the Colorado Supreme Court's denial of certiorari review (2024SC691) on January 13, 2025, is being filed contemporaneously.

CONSTITUTIONAL & RULE PROVISIONS INVOLVED

United States Constitution

- First Amendment (Free Exercise of Religion)
- Article I, § 9, cl. 2 (Habeas Corpus)
- Fifth Amendment (Due Process)
- Fourteenth Amendment, § 1 (Due Process & Equal Protection)

Federal Rules & Statutes

- Federal Rule of Civil Procedure 60(b)(3)-(4),(6) (Relief from judgment for fraud, void judgments, or other justifying reasons)
- 28 U.S.C. § 2248 (Untraversed habeas allegations accepted as true)

Colorado Rules & Statutes

- Colorado Rule of Civil Procedure 8(d) (Admissions by failure to deny)
- Colorado Rule of Civil Procedure 60(b) (Relief from judgment, mirroring federal rule)
- C.R.S. §§ 13-45-101 & 13-45-102 (Habeas corpus statutes)

Colorado Constitution

- Article II, § 3 (Inalienable Rights)
- Article II, § 4 (Religious Freedom)
- Article II, § 6 (Access to Courts & Speedy Remedy)
- Article II, § 25 (Due Process)
- Article VI, § 2(1) (General Superintending Control)
- Article VI, § 3 (Supreme Court's Habeas Corpus Authority)

For full text of these provisions see Appendix I.

STATEMENT OF THE CASE

This extraordinary case presents a complete systemic failure of the Colorado judicial system to enforce mandatory relief from void judgments despite binding precedent under Rule 60(b) establishing that such relief "is not discretionary; it is mandatory." The case exposes a critical gap in enforcement mechanisms when state courts abdicate their constitutional duty to vacate void orders—particularly when those void orders irreparably harm fundamental parent-child relationships and form the basis for criminal prosecutions.

A. Factual Background

For nearly six years, Petitioner has sought redress for the color of law destruction of his family of eight children. The case stems from an underlying domestic relations case (2015DR7) in which Petitioner alleged and proved fraud upon the court and substantial deprivations of constitutional rights, which, when undisputed as here, caused loss of jurisdiction and authority and automatically nullified the post-decree proceeding and all decisions by operation of law.

The present petition arises from two related but distinct proceedings. First, Petitioner was criminally convicted for sending a four-word parental communication which was alleged to violate a void civil protection order and subsequently classified as an act of domestic violence, though the jury made no such finding. Second, Petitioner challenged the validity of the underlying protection order itself through a habeas corpus petition and proceeding, providing a prima facie case that it was procured by fraud and material misrepresentations by his former spouse, Respondent Rachel Zinna Galán (hereinafter "Galán"), in Elbert County case

2022C59 on September 26, 2022. See App. E.

The underlying complaint was riddled with falsities and obtained during the Jewish High Holy Days when Petitioner was unable to attend due to religious observance. Despite an explicit request to reschedule for this religious commitment (documented in an email dated October 7, 2022, see App. F), the hearing for the permanent protection order proceeded in his absence.

The protection order included a "No Exceptions" provision but did not explicitly extend to necessary parental communications regarding the minor children. On September 30, 2022, Petitioner's innocent text requested that his daughter call him. Consistent with his custom during the Jewish High Holy Days, he sought to speak to and bless his children. This overly broad restraint violated both his parental rights and the children's right to have contact with their father, ultimately leading to his criminal prosecution and conviction—and later classified as an act of domestic violence despite no criminal intent—in case 2022M143.

The judicial proceedings have been marked by the following injustices:

1. Scheduling hearings during Jewish High Holy Days, despite prior notice;
2. Proceeding with hearings in Petitioner's absence due to religious observance;
3. Restricting all parental contact without legitimate justification;
4. Ignoring jurisdictional defects and challenges to the void protection order and underlying orders;
5. Summarily denying habeas corpus relief despite Respondent's multiple defaults; and
6. Post-trial classification of an innocent text message as "domestic violence."

These actions have caused Petitioner to miss irreplaceable family milestones, including his son's bar mitzvah in 2022 and his daughter's wedding in 2024, while perpetuating an unlawful and deeply harmful separation from his children.

B. Procedural History and Failure of Mandatory Relief Systems

1. Underlying Domestic Relations Case and Rule 60(b) Motion

In the underlying case 2015DR7, Petitioner properly invoked Rule 60(b) in January 2022, alleging and proving numerous frauds upon the court and deprivations of rights that rendered multiple orders void. On page 1 of the motion, Petitioner stated "Rabbi, Jacob Bellinsky (Father), as sui juris, comes now to forthwith move for emergency entry of court orders setting aside all orders and judgements made by Judge David C. Taylor in case 2015DR7 as void, pursuant to Colo. R. Civ. P. 60(b)(2) and (3)..." On page 15, he further stated: "Pursuant to Colo. R. Civ. P. 60(b)2-3, this court 'must' now set aside Judge David C. Taylor's court orders and judgement's for *any one* of the proven frauds upon the court or deprivations to Father's and his minor children's constitutional and civil rights to due process of law that have occurred in this case."

After completing the full motion cycle—including "Motion," "Response," and "Reply & Demand for Due Relief"—Judge Vriesman summarily denied relief, mischaracterizing Petitioner's Rule 60(b) motion as merely a "Reconsideration Motion" despite its clear and proper invocation of mandatory relief from judgments deemed void by operation of law. See App. G. His detailed filings alleged and proved specific frauds upon the court, due process violations, and jurisdictional defects that,

under controlling precedent cited in his Rule 60(b) motion, replies, and demands—required mandatory relief. Opposing counsel's failure to deny these allegations triggered default under Colorado Rule of Civil Procedure 8(d). Despite this default and Petitioner's proper invocation of Rule 60(b)—legally establishing the orders as void by operation of law—the court refused to provide the mandatory relief required under binding Tenth Circuit precedent.

Petitioner subsequently submitted a "demand for due relief" to Chief Judge Pilkington, which Judge Vriesman also summarily denied. See App. H. Petitioner then filed multiple petitions with the Colorado Supreme Court in cases 2022SA274 and 2023SA223, both advanced pursuant to Constitutional provisions, yet were denied without substantive review in disregard of the duty to enforce the mandatory nature of the due relief.

2. Criminal Proceedings and Supreme Court Review

Petitioner was convicted of a violation of protection order—subsequently classified as an act of domestic violence—for sending a parental text ("Have [daughter] call me") allegedly in violation of said underlying void civil protection order (See App. E).

After exhausting appeals in lower courts (See App. C), Petitioner filed a petition for writ of certiorari with the Colorado Supreme Court (2024SC691) on October 31, 2024. The Colorado Supreme Court denied the petition with a single-line order on January 13, 2025, without addressing any of the constitutional issues raised (See App. A).

3. Habeas Corpus Proceedings

On June 7, 2024, Petitioner filed a habeas corpus petition challenging unlawful restraints to liberty and the validity of the underlying protection order in 2022C59 that formed the basis of the criminal conviction in 2022M143. Respondent Galán was properly served on June 14, 2024, but filed no response, triggering default under Colorado Rule of Civil Procedure 8(d), 28 U.S.C. § 2248, and other controlling law and binding precedent.

On July 10, 2024, Senior Judge John R. Lowenbach issued an opinion (See App. D) denying the petition without hearing or addressing Respondent's default, Petitioner's prima facie case, or the comprehensive evidence establishing the order's voidness. After denial in the lower court, Petitioner filed a "Notice of [Habeas] Appeal" (2024SA214) with the Colorado Supreme Court on July 19, 2024. Despite this fully briefed appeal that included a comprehensive 53-page "Extraordinary Habeas Corpus Appeal Brief" documenting numerous constitutional violations and Respondent's dispositive default, the Colorado Supreme Court denied the extraordinary appeal with a one-line order on February 21, 2025 (See App. B). Without any opinion addressing the merits or explaining its rationale for declining to enforce mandatory relief from a void judgment, the court completely ignored Respondent's multiple defaults (including her failure to answer the appeal) all which legally established the allegations of the petition as admitted facts.

4. Pattern of Systemic Judicial Obstruction

Over the past five years, Petitioner has filed numerous petitions seeking relief

from the alleged constitutional violations. None of these petitions have been addressed on their merits by the Colorado courts. Petitioner sought both certiorari review of his criminal conviction and extraordinary appeal of the habeas corpus denial. The Colorado Supreme Court denied both petitions without addressing the merits or constitutional claims. These denials came despite the court's special superintending powers under Article VI, § 2(1) of the Colorado Constitution and its authority under Article VI, § 3 to address cases involving void judgments. The court refused to exercise its authority under circumstances precisely matching Colorado's own standards for extraordinary relief:

> (1) Inadequate appellate remedy, (2) Irreparable harm, and (3) Issues of significant public importance not previously considered (See *People v. Manaois*, 487 P.3d 995 (Colo. 2021); *People v. Tafoya*, 434 P.3d 1193 (Colo. 2019); *People v. Lucy*, 467 P.3d 332 (Colo. 2020), *People ex rel. A.T.C.*, 529 P.3d 1199 (Colo. 2023), *People v. Subjack*, 480 P.3d 693 (Colo. 2021)).

The systematic denial of relief is further demonstrated in two key proceedings: (1) Judge Vriesman's mischaracterization of Petitioner's Rule 60(b) motion in 2015DR7 as merely a "Reconsideration Motion" despite clear invocation of mandatory relief from void judgments, followed by another denial for due relief made directly to Chief Judge Pilkington and to former Chief Justice Boatright (see App. G, App. H); and (2) The Colorado Supreme Court's one-line denial of Petitioner's fully briefed Extraordinary Habeas Corpus Appeal (2024SA214), which documented constitutional violations and Respondent's dispositive default that

legally established all allegations as admitted facts.

This pattern of systemic obstruction directly contravenes the Colorado Supreme Court's own precedent in *First Nat'l Bank v. Fleisher*, 2 P.3d 706, 714 (Colo. 2000), which established that "relief under C.R.C.P. 60(b)(3) is mandatory" when a judgment is void. The court has consistently defined void judgments as those which, from their inception, were complete nullities and without legal effect. Its refusal to follow its own precedent, or precedent from the Tenth Circuit, not only highlights a systemic failure to enforce mandatory relief but also constitutes an implicit admission of depriving Petitioner of equal protection under the law.

C. Irreparable Harm from Void Orders

The void protection order continues to impose sweeping restraints on Petitioner's fundamental liberties. Most poignantly, it barred him from attending his daughter's wedding—an irreplaceable family milestone lost forever due to the enforcement of an order that never had valid legal effect.

Additionally, the order has:

1. Separated Petitioner from his eight children during critical developmental years, causing documented trauma and attachment disruption;
2. Violated his fundamental right to parent, as protected in *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000);
3. Interfered with his religious observance, preventing shared practices and experiences during formative years and key milestones;

4. Criminalized legitimate and necessary parental communication, resulting in an after-the-fact domestic violence classification and a two-year supervised probation sentence; and

5. Harmed his reputation and professional standing.

Despite exhausting all available state remedies and clearly demonstrating the voidness of the underlying orders—conditions warranting mandatory relief—Petitioner has received no adjudication on the merits at any level of Colorado's judiciary. This failure underscores the urgent need for an automatic enforcement mechanism in civil and criminal rules of procedure when courts abdicate their constitutional duty to provide mandatory relief from void judgments.

REASONS FOR GRANTING THE PETITION

I. The Courts Are Deeply Divided on Mandatory Relief from Void Orders and Habeas Default Procedures

For over forty years, courts have been sharply divided on two fundamental questions: (1) whether void orders may be enforced against parties denied meaningful opportunity to challenge them, despite Rule 60(b)(4)'s explicitly "mandatory" relief; and (2) whether habeas corpus may be denied without opinion despite a respondent's default that legally admits all material facts under Rule 8(d) and 28 U.S.C. § 2248.

This entrenched division—itself revealing, as the plain meaning of "mandatory" should require no judicial interpretation—creates inconsistent protection of constitutional rights based solely on geography.

A. The Circuit Split on Mandatory Relief from Void Orders Is Clear and Persistent

The federal circuits and state courts of last resort remain divided into three distinct camps on the enforceability of void orders:

1. Void Orders Are Nullities:

Some courts hold void orders have no legal effect and cannot be enforced under any circumstances. *Johnson v. Spencer*, 950 F.3d 680, 698 (10th Cir. 2020), reaffirmed that Rule 60(b)(4) relief is mandatory: "if a judgment is void, it is a per se abuse of discretion to deny a motion to vacate the judgment." This builds on *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994), which held: "Where Rule 60 is properly invoked on the basis that the underlying judgment is void, 'relief is not a discretionary matter; it is mandatory'" (quoting *V.T.A., Inc. v. Airco, Inc.*, 597 F.2d 220, 224 n.8 (10th Cir. 1979)). Orner clarified: Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside." *Id.* at 1310. Similarly, the Colorado Supreme Court's precedent maintains that relief from void judgments is mandatory. In *First Nat'l Bank v. Fleisher*, 2 P.3d 706, 714 (Colo. 2000), and earlier in *In re Marriage of Stroud*, 631 P.2d 168, 170 n.5 (Colo. 1981), the court was explicit: "When the motion alleges that the judgment attacked is void, C.R.C.P. 60(b)(3), the trial court has no discretion. The judgment either is void or it isn't and relief must be afforded accordingly." These courts consistently hold that a void judgment is, from its inception, a legal nullity without effect (*United States v. Bigford*, 365 F.3d 859, 865 (10th Cir. 2004);

Jordon v. Gilligan, 500 F.2d 701, 704 (6th Cir. 1974); *Kocher v. Dow Chemical Co.*, 132 F.3d 1225, 1230-31 (8th Cir. 1997); *Carter v. Fenner*, 136 F.3d 1000, 1005 (5th Cir. 1998)).

2. Intermediate Approach:

Other courts have adopted an intermediate approach, holding that void orders must be obeyed until formally vacated, but only if the court provides a meaningful opportunity to challenge the order's validity. *United States v. United Mine Workers*, 330 U.S. 258, 293-94 (1947); *Walker v. City of Birmingham*, 388 U.S. 307, 315-21 (1967). These courts emphasize that due process requires, at minimum, "the opportunity to be heard at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). The Seventh Circuit, in *In re Hijazi*, 589 F.3d 401, 408-09 (7th Cir. 2009), held that orders may be disobeyed if the party "has no adequate remedy through the ordinary processes," reflecting a nuanced approach that ties enforceability to the availability of meaningful review.

3. Strict Obedience:

A third group of courts holds that even facially void orders must be obeyed until set aside, regardless of whether the judicial system provides any meaningful opportunity to challenge them. *In re Establishment Inspection of Hern Iron Works*, 881 F.2d 722, 726-27 (9th Cir. 1989) (holding that even void orders must be obeyed until vacated); *Novak v. Commonwealth*, 20 Va. App. 373, 389 (1995) (holding that "an order issued by a court with jurisdiction over the subject matter

must be obeyed until it is reversed by orderly and proper proceedings," even if void); *State v. Ciraolo*, 756 A.2d 1161, 1169 (R.I. 2000) (adopting a strict approach requiring obedience to all orders until formally set aside).

This persistent division creates a constitutional lottery where enforceability of void orders depends on geography, further complicated by confusion between void and merely erroneous judgments. As established in *Ryan v. Cronin*, 191 Colo. 487, 553 P.2d 754 (1976), "Erroneous judgments are not subject to attack by use of the writ of habeas corpus. It is to be used only where the judgment is void." The Colorado courts, contrary to this precedent, wrongly asserted that "adequate remedies through appeal" exist for void orders (App. D-3), despite clear authority establishing that void orders are non-appealable and fall under habeas review.

Within the Tenth Circuit, *Orner* and its progeny mandate relief for void judgments, yet Colorado courts disregarded binding precedent. The Tenth Circuit's consistent stance, reaffirmed in *Johnson v. Spencer*, directly conflicts with approaches in the First and Ninth Circuits that allow enforcement of void orders. This split results in identical constitutional violations receiving drastically different remedies based solely on jurisdiction.

B. Fraud Upon the Court Creates a Unique Category of Void Judgments Requiring Mandatory Relief

Fraud upon the court requires special consideration in the Rule 60(b) context. In *Bulloch v. United States*, the Tenth Circuit defined fraud upon the court as "fraud which is directed to the judicial machinery itself and is not fraud between the

parties or fraudulent documents, false statements or perjury... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function - thus where the impartial functions of the court have been directly corrupted." 763 F.2d 1115, 1121 (10th Cir. 1985).

In *In re Marriage of Gance*, 36 P.3d 114, 117-18 (Colo. App. 2001), the Colorado Court of Appeals established that fraud upon the court "is closely aligned with, but somewhat narrower than, extrinsic fraud" and defined it as "fraud which is directed to the judicial machinery itself... where the impartial functions of the court have been directly corrupted." The Gance court specifically held that fraud upon the court occurs when "an attorney or officer of the court perpetrates fraud that thwarts the court's performance of its proper function in impartial decision-making or that involves a 'direct assault on the integrity of the judicial process.'" *Id.* at 118. Such fraud is particularly egregious because it "subverts the administration of justice" by undermining the integrity of the judicial system itself, not merely affecting a single case outcome. *Southeastern Colo. Water Conservancy Dist. v. Cache Creek Mining Trust*, 854 P.2d 167, 176 (Colo. 1993).

As recognized in *Hazel-Atlas*, 322 U.S. 244-45, no statute of limitations restricts courts' inherent authority to remedy fraud corrupting judicial process. This principle remains vital today, as evidenced by this Court's continued recognition that fraud upon the court creates a "fundamental infirmity" that allows relief even after judgment becomes final. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270 (2010).

The present case involves conduct by Respondent Galán's former attorney, acting as an officer of the court, that falls squarely within the definition of fraud upon the court. This includes filing unwarranted protection orders and fraudulent motions to restrict parenting time, violating due process, and conspiring with other court officers to separate Petitioner from his children—constituting clear and deliberate fraud. Other officers of the court compounded this misconduct by scheduling hearings during religious holidays despite prior notice, systematically refusing to address jurisdictional defects and challenges, and denying habeas relief without opinion, even in cases of default. These actions collectively represent the kind of "direct assault on the integrity of the judicial process" that Colorado law identifies as fraud upon the court.

When Petitioner properly invoked Rule 60(b) and documented these frauds upon the court and deprivations of rights with specificity, opposing counsel's failure to deny the allegations triggered default admission under Rule 8(d), establishing the frauds as fact. Yet multiple judges and justices of the Colorado courts, including the Colorado Supreme Court, refused to grant the mandatory relief required by law.

When officers of the court engage in such egregious conduct and the judiciary fails to provide relief despite the unequivocal mandate of precedents like Orner, the judicial system becomes complicit in perpetuating the fraud. This case presents a critical opportunity to affirm whether relief from judgments void due to fraud upon the court is truly "mandatory" when properly invoked, substantiated with evidence, and established through default, by operation of law, or other legal mechanisms.

C. This Court's Precedents Have Not Resolved the Conflict

This Court's decisions in *United Mine Workers* and *Walker v. City of Birmingham* established that court orders must be obeyed until set aside. However, those cases involved orders that were merely erroneous—not void for lack of jurisdiction—and stressed that parties had "expeditious and effective" means to challenge them (*Walker*, 388 U.S. at 318–19).

In contrast *Elliot v. Lessee of Piersol*, 26 U.S. 328, 340 (1828), held that orders entered without authority "are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them." This principle directly conflicts with modern approaches requiring obedience to facially void orders.

United Student Aid Funds affirmed that a void judgment is a legal nullity affected by "fundamental infirmity," while clarifying that a judgment is void only in the "rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard" (*Id.* at 271). This narrower definition has not resolved the circuit split regarding whether relief from such judgments is truly mandatory when properly established.

The Court of Federal Claims in *Rogero v. Sec'y of the HHS*, 142 Fed. Cl. 647 (2019), applied *United Student Aid Funds* to define a "void" judgment but did not address the mandatory nature of relief. Similarly, the Federal Circuit in *Broyhill Furniture Indus. v. Craftmaster Furniture Corp.*, A2 F.3d 1080 (Fed. Cir. 1993) and *Schreiber Foods, Inc. v. Beatrice Cheese, Inc.*, 402 F.3d 1198 (Fed. Cir. 2005), discussed void judgments without resolving the question.

The Tenth Circuit has consistently held that "where Rule 60 is properly invoked on the basis that the underlying judgment is void, relief is not a discretionary matter; it is mandatory" (*Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994)). *United States v. Handy*, 743 Fed. Appx. 169 (10th Cir. 2018), reiterated that relief under 60(b)(4) is mandatory, and *United States v. Toombs*, 2022 U.S. Dist. LEXIS 82837 (D. Kan. 2022), confirmed that relief under Rule 60(b)(4) is mandatory when a judgment is void due to a fundamental infirmity. This conflicts with the First and Ninth Circuits, where void orders remain enforceable until vacated.

D. The Courts Are Also Divided on Habeas Default Rules

Courts across the country remain divided on whether habeas corpus petitions require adjudication on the merits when the respondent defaults, particularly in cases involving constitutional rights. The approaches fall into three main categories:

1. **Mandatory Relief Upon Default:** Some courts hold that default by a respondent in habeas proceedings creates a mandatory duty to issue the writ. See, e.g., *Sizemore v. District Court*, 735 F.2d 204, 206 (6th Cir. 1984) (recognizing that default by the government in habeas proceedings creates a presumption for granting relief); *Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970) (noting that respondent's failure to answer habeas petition "has the legal effect of admitting well-pleaded allegations"); *Hudson v. Parker*, 156 U.S. 277, 289-91 (1895) (holding that when a habeas petition shows proper cause, the writ should be granted).

2. **Discretionary Relief After Default:** Other courts treat default as merely one factor in deciding whether to grant habeas relief, still requiring petitioners to demonstrate entitlement to relief. See *Bermudez v. Reid*, 733 F.2d 18, 21-22 (2d

Cir. 1984) (court is not required to accept all allegations as true despite default); *Aziz v. Leferve*, 830 F.2d 184, 187 (11th Cir. 1987) (default does not automatically entitle petitioner to relief); *Dellenbach v. Hanks*, 76 F.3d 820, 822 (7th Cir. 1996) (holding that default judgment is "strongly disfavored" in habeas proceedings).

3. Middle Approach: Factual Admissions with Legal Review: Still other courts adopt a middle approach, requiring courts to accept well-pleaded factual allegations as true following default, while still requiring independent analysis of legal questions. See 28 U.S.C. § 2248 ("The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true."); *Ruiz v. Cady*, 660 F.2d 337, 341 (7th Cir. 1981) (recognizing that default admission rule "does not preclude the court from determining whether the admitted facts, as a matter of law, entitle the plaintiff to relief").

This division creates a situation where the effect of default in habeas proceedings—a fundamental constitutional protection—varies significantly based solely on geography.

E. State Courts Are Similarly Divided on Enforceability of Void Orders

State courts of last resort are divided on void order enforcement:

1. Void Orders Cannot Be Enforced

Some state supreme courts hold that void orders cannot be enforced. See, e.g., *Kabasa v. Kabasa*, 371 N.W.2d 347, 349 (S.D. 1985) ("It is universally recognized that a void judgment... is entitled to no force or effect. A void judgment is in legal

contemplation no judgment at all."); *In re H.H.*, No. 07-17-00282-CV, 2019 WL 1271053, at *6 (Tex. App. Mar. 19, 2019) ("A void order has no force or effect and confers no rights; it is a nullity."); *State v. Price*, 715 A.2d 1052, 1054 (N.H. 1998) ("A void judgment or order is a nullity and has no effect."); *State ex rel. Beil v. Dota*, 106 N.E.3d 1255, 1259 (Ohio 2018) ("A void judgment is a nullity and open to collateral attack at any time.").

2. Nuanced Approach: Obedience Only with Meaningful Review

Other high courts require obedience to void orders only if a meaningful opportunity for judicial review is exists. See, e.g., *State v. Liotard*, 114 Ariz. 35, 37 (1976) (distinguishing between orders that are "erroneously issued" and those "void for lack of jurisdiction"); *In re Dexter*, 158 Vt. 230, 235 (1992) (requiring obedience only when "effective remedies exist"); *Commonwealth v. Krall*, 722 A.2d 997, 1001 (Pa. 1998) (weighing the availability of review mechanisms against immediate disobedience).

3. Strict Obedience Required Until Set Aside

Still others have held that all judicial orders must be obeyed until formally set aside. See, e.g., *People v. Gonzalez*, 12 Cal. 4th 804, 819 (1996) (adopting strict approach requiring obedience to all orders); *In re Berry*, 68 Cal. 2d 137, 147 (1968) (holding that void orders must be obeyed until set aside); *Campbell v. Commonwealth*, 294 S.W.3d 450, 456 (Ky. 2009) (requiring obedience even to orders later found to be invalid).

Colorado itself is inconsistent. *In People in Interest of K.P.*, 517 P.3d 70 (Colo. App. 2022), the court applied a strict approach requiring obedience until set aside,

while in Stroud the Colorado Supreme Court held that when a judgment is attacked as void, "the trial court has no discretion" and "relief must be afforded accordingly" (*Stroud*, 631 P.2d at 170 n.5). These contradictory approaches, combined with the three-way split among state courts, demand this Court's guidance on this fundamental constitutional question.

F. The Conflict Has Real-World Consequences

The ambiguity surrounding these fundamental issues imposes serious consequences for citizens facing knowingly void orders. In jurisdictions that demand obedience while blocking effective challenges, citizens face an impossible dilemma: they must either obey orders that violate their constitutional rights or risk criminal penalties for disobeying orders that have no legal effect.

This case epitomizes that dilemma. Petitioner was criminally prosecuted for violating a protection order procured by fraud—during religious holidays and amid a conspiracy. Despite overwhelming undisputed evidence of its invalidity, Colorado courts systematically thwarted meaningful review with coordinated procedural barriers. This systemic prevention of meaningful review of void orders erodes public confidence in the judicial process. When courts fail to address such foundational issues, it not only leaves citizens without recourse but perpetuates a cycle of uncertainty and injustice. The impact of this conflict extends far beyond this case to affect thousands of protection orders issued annually nationwide.

Clarifying the mandatory nature of relief from void judgments would promote judicial economy by preventing needless litigation over established legal principles while providing courts clear guidance on their constitutional obligation to address

rather than avoid jurisdictional challenges. The interconnected questions presented—spanning mandatory relief, religious discrimination, and habeas default—would benefit from being addressed together to restore integrity to protection order proceedings across jurisdictions.

II. This Case Presents an Ideal Vehicle for Resolving Both Conflicts

This case presents a rare opportunity to resolve the persistent confusion over both (1) the enforceability of void orders despite the mandatory nature of Rule 60(b) relief and (2) the effect of default in habeas corpus proceedings. Unlike many cases that present merely theoretical questions, this petition arises from ongoing constitutional injuries flowing from the enforcement of orders that are demonstrably void and the denial of habeas relief without opinion despite respondent's default.

A. The Record Conclusively Establishes the Order's Voidness

The record contains overwhelming and undisputed evidence that the protection order is void ab initio:

1. It was procured through documented fraud, with Galán's verified complaint (App. E) containing multiple material misrepresentations, including false claims of stalking, physical threats, and trespassing that have been conclusively disproven through documentary evidence, witness testimony, and bodycam footage.

2. It was obtained during Jewish High Holy Days despite Petitioner's advance written notice of religious observance. Petitioner's email to the court clerk explicitly requested rescheduling due to religious observance (App. F.), yet this request was ignored, and the hearing proceeded in his absence.

3. It was secured as part of a broader criminal conspiracy to unlawfully separate Petitioner from his children, as documented in multiple criminal complaints and supporting record evidence.

4. The hearings proceeded without jurisdiction, as established in comprehensive affidavits documenting jurisdictional defects and challenges that have never been adjudicated despite being properly filed with the court.

These uncontested facts present a clean vehicle for resolving whether void orders may be enforced against parties who have been systematically denied any meaningful opportunity to challenge them. The record conclusively demonstrates both the order's voidness and the coordinated denials of procedural due process that have prevented any meaningful review of that voidness.

B. The Constitutional Questions Are Squarely Presented

This case directly presents fundamental and resolvable constitutional questions about due process, religious liberty, and the limits of judicial power:

1. **Due Process:** Can courts continue to enforce orders known to be void without violating due process guarantees? This Court has held that "[i]t is settled by the decisions of this Court that due process of law means a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial." *Powell v. Alabama*, 287 U.S. 45, 68 (1932). The systematic enforcement of void orders without providing meaningful review directly conflicts with this principle.

2. **Religious Liberty:** Does scheduling critical hearings during religious holidays despite advance notice violate the First Amendment's Free Exercise

Clause and comparable state protections? This Court has recognized that "the right to worship according to the dictates of one's conscience is guaranteed by the Constitution." *Barnette v. West Virginia State Board of Education*, 319 U.S. 624, 642 (1943). The deliberate scheduling of hearings during sacred religious observances, despite advance notice, directly implicates this fundamental right.

3. **Judicial Power:** What are the constitutional limits on enforcing orders procured through fraud and without jurisdiction? This Court has emphasized that "federal courts have no authority to review a state court judgment 'in the exercise of jurisdiction obtained by fraud.'" *Dustin v. Galaza*, 371 F.3d 51, 53 (2004) (quoting *Ex parte Fierstein*, 41 F.2d 53, 54 (9th Cir. 1930)). The continued enforcement of orders procured through documented fraud challenges the constitutional boundaries of judicial power.

These questions go to the heart of our constitutional system and require this Court's authoritative resolution. Unlike many petitions that present these issues in hypothetical terms, this case provides concrete, well-documented examples of systematic constitutional violations flowing from the enforcement of void orders.

C. No Procedural Obstacles Impede Review

This case cleanly presents both questions without threshold procedural barriers: (1) whether void orders may be enforced prior to being set aside despite the mandatory nature of Rule 60(b) relief, and (2) whether courts can deny habeas corpus without opinion despite respondent's default. Despite diligently pursuing

every available avenue to challenge the order's validity, Petitioner encountered a pattern of procedural obstacles shielding void orders from meaningful review.

The record establishes both the mandatory nature of Rule 60(b) relief given the proven voidness of the protection order and respondent's default in the habeas proceedings. In case (24CV5), Galán was properly served on June 14, 2024, but filed no responsive pleading, admitting all allegations under C.R.C.P. 8(d) and triggering the mandatory issuance of the writ. Despite this default, Judge Lowenbach denied the petition without addressing the default's effect, the comprehensive evidence of the order's voidness, or constitutional implications.

The Colorado courts' systematic refusal to address the order's validity—despite overwhelming evidence of fraud, religious discrimination, jurisdictional defects, and respondent's default—highlights the urgent need for this Court's intervention on both questions presented.

III. The Lower Courts' Decisions Conflict with This Court's Precedents on Both Mandatory Relief from Void Orders and Habeas Default Rules

The lower courts' enforcement of a known void order and denial of habeas corpus despite default conflict with this Court's precedents on Rule 60(b) relief, habeas procedures, due process, religious liberty, and limits on judicial power.

A. Due Process Requires Meaningful Opportunity to Challenge Void Orders

This Court has consistently held that due process requires "the opportunity to be heard at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Yet Colorado courts prevented meaningful review through:

1. Suppressing exculpatory evidence proving the order's invalidity;
2. Ignoring affidavits documenting jurisdictional defects;
3. Dismissing challenges without addressing merits;
4. Mischaracterizing evidence and legal standards; and
5. Imposing post-trial domestic violence classifications without jury findings.

This pattern of procedural obstacles has effectively denied Petitioner any "meaningful opportunity to present [his] case." *Matthews v. Eldridge*, 424 U.S. 319, 349 (1976). As emphasized in *Boddie v. Connecticut*, 401 U.S. 371, 377 (1971), "due process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard." The systematic denial of any meaningful opportunity to challenge the void protection order directly conflicts with this core principle.

Vitek v. Jones, 445 U.S. 480, 491 (1980), recognized greater procedural protections are required "when a State seeks to terminate liberty interests involving 'the most basic aspects of human autonomy.'" The liberty interests at stake here—including the fundamental right to parent one's children and practice one's religion—are among the most basic aspects of human autonomy, yet the Colorado courts have provided far less procedural protection than said precedents require.

B. Religious Discrimination Violates the First Amendment

Scheduling hearings during Jewish High Holy Days despite advance notice violates this Court's religious liberty jurisprudence. The Free Exercise Clause

"protects religious observers against unequal treatment." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 542 (1993). This forced Petitioner to choose between observing his faith and protecting his fundamental rights—a choice the Constitution prohibits. *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2021-22 (2017) (holding that the government cannot put citizens to a choice between religious exercise and participation in public programs). In addition to the frauds upon the court, this deprivation of religious liberties also nullified the protection order.

Sherbert v. Verner, 374 U.S. 398, 410 (1963), held that government actions that "penalize the free exercise of [one's] constitutional liberties" are impermissible. *Thomas v. Review Bd. of Ind. Employment Sec. Div.*, 450 U.S. 707 (1981) affirmed that a burden on religion exists when the state puts "substantial pressure on an adherent to modify their behavior and violate their beliefs."

Recent decisions strengthen this position. *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2021) reaffirmed that "laws burdening religious practice [must] be neutral and generally applicable." Similarly, *Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rights Comm'n*, 584 U.S. 617 (2018) emphasized that governmental actions that express hostility toward religion cannot survive constitutional scrutiny. This principle has been consistently affirmed in *Hobbie v. Unemployment Appeals Comm'n*, 480 U.S. 136 (1987), *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022) and *Espinoza v. Mont. Dep't of Revenue*, 591 U.S. 464 (2020).

Under the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb et seq., such burdens require strict scrutiny—demanding the least restrictive means to further a compelling interest. This standard cannot be satisfied when reasonable accommodations like rescheduling are available. See *Fulton*, 141 S. Ct. at 1881.

C. Enforcing Void Orders Despite Mandatory Relief Requirements Exceeds Constitutional Limitations on Judicial Power

This Court held in *Hazel-Atlas*, 322 U.S. at 244-46, that the power to remedy fraud upon the court "knows no statute of limitations" and "'is necessary to the integrity of the courts" – principles vital when courts systematically refuse to provide mandatory relief from void judgments.

In *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270 (2010), this Court affirmed that "a void judgment is a legal nullity" and "a void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final." Colorado courts' enforcement of an order procured through fraud upon the court, during religious holidays, and without jurisdiction conflicts with these principles.

Vallely v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 353-54 (1920) established that when a court acts without jurisdiction, "its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them." Continuing to enforce a facially void order as the basis for criminal prosecution cannot be reconciled with these precedents.

D. Denying Habeas Relief Without Opinion Despite Default Violates This Court's Habeas Jurisprudence

This Court has consistently held that habeas corpus is "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 290-91 (1969). Colorado precedent aligns with this principle, holding that "A hearing on a writ of habeas corpus may not be summarily denied when the allegations on the face of the petition indicate recitals that entitle the petitioner to the writ forthwith." *Sharp v. Tinsley*, 147 Colo. 84, 89 (1961). When respondents default, courts have a constitutional obligation to address the well-pleaded allegations of unlawful restraint.

The requirement that untraversed allegations be accepted as true is codified in 28 U.S.C. § 2248. Colorado courts' denial of habeas relief without opinion despite respondent's default violates these principles and effectively suspends the writ of habeas corpus in contravention of Article I, Section 9.

This Court has emphasized that habeas corpus "has played a great role in the history of human freedom. It has been the judicial method of lifting undue restraints upon personal liberty." *Fay v. Noia*, 372 U.S. 391, 449-50 (1963) (Harlan, J., dissenting). Habeas corpus "lies to test proceedings so fundamentally lawless that imprisonment pursuant to them is not merely erroneous but void." *Fay*, 372 U.S. at 423. While *Wainwright v. Sykes*, 433 U.S. 72 (1977) replaced the "deliberate bypass" standard with the stricter "cause and prejudice" standard for petitioner defaults, this doesn't apply to respondent defaults. When the government fails to respond, 28 U.S.C. § 2248 still mandates that untraversed allegations be accepted as true.

Denying habeas relief without opinion despite default violates the principle in *Geer v. Alaniz* that habeas corpus is "the precious safeguard of personal liberty, concerning which courts are admonished that there is no higher duty than to maintain it unimpaired." 138 Colo. 177, 331 P.2d 260, 262 (1958). This is particularly critical for void orders that are unappealable, making habeas corpus the only appropriate remedy.

Boumediene v. Bush, 553 U.S. 723 (2008) reinforced habeas corpus's vital importance as a check against arbitrary executive power, emphasizing that meaningful judicial review is essential. Summary denial without addressing respondent's default directly contravenes these principles.

IV. In Light of Loper Bright, Courts Must Independently Scrutinize Constitutional Claims Rather Than Defer to Lower Court Determinations

Loper Bright Enterprises v. Raimondo, 603 U.S. ___ (2024) established that courts must exercise independent judgment rather than defer to agency interpretations. This principle applies with even greater force when constitutional rights are at stake. Just as executive branch interpretations no longer receive automatic deference, judicial interpretations that systematically avoid addressing jurisdictional challenges to void orders—particularly those implicating religious liberty and parental rights—demand independent scrutiny rather than institutional deference.

The Colorado Supreme Court's refusal to provide independent review of the constitutional violations in this case—instead issuing single-line denials without analysis—conflicts with *Loper Bright's* mandate for meaningful judicial review. This

case provides an opportunity for the Court to clarify the scope of *Loper Bright* and its application to state court proceedings, particularly in cases involving systemic constitutional violations and prosecutorial overreach.

A. Loper Bright Requires Courts to Exercise Independent Judgment

In Loper Bright, this Court emphasized that "courts are 'duty bound to exercise independent judgment' when interpreting federal statutes." This duty is even more critical when constitutional rights are at stake, as they are here. The Colorado courts' pattern of deferring to lower court determinations and prosecutorial fiat without independent scrutiny—issuing one-line denials without addressing the constitutional claims—directly conflicts with this principle.

B. Constitutional Claims Require Heightened Scrutiny Under Loper Bright

While Loper Bright addressed agency interpretations, its underlying principle—that courts must independently scrutinize legal questions—applies with even greater force to constitutional claims. As Justice Thomas noted in his concurrence, "the judicial power requires judges to exercise independent judgment in applying the law to the facts in the cases that come before them." This requirement of independent judgment is at its apex when constitutional rights are at stake, particularly when fundamental parent-child relationships face irreparable harm from void orders. Under Loper Bright's reasoning, courts cannot abdicate their "province and duty" to independently determine whether orders are void.

Williams-Yulee v. Florida Bar, 575 U.S. 433, 445-46 (2015) recognized that "a State cannot truncate the judicial process to avoid constitutional review." Yet that is

precisely what occurred here, where courts at every level actively avoided reaching the merits of Petitioner's well-supported constitutional claims.

C. Loper Bright Undermines Deference to Institutional Practices

Colorado courts' deference to lower court determinations and prosecutorial decisions exemplifies the abdication of independent judgment *Loper Bright* rejects. When courts fail to independently scrutinize claims that protection orders are void due to fraud and jurisdictional defects, they abdicate their constitutional duty to "say what the law is," *Marbury v. Madison*, 5 U.S. 137, 177 (1803), particularly when constitutional rights are at stake.

V. An Automatic Enforcement Mechanism Is Needed When Courts Abdicate Their Duty to Provide Mandatory Relief from Void Judgments

The principle that relief from void judgments is mandatory, not discretionary, is well-established in federal jurisprudence and state law. As the Tenth Circuit explicitly held in *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994): "Where Rule 60 is properly invoked on the basis that the underlying judgment is void, 'relief is not a discretionary matter; it is mandatory.'" When courts systematically ignore this principle, they violate their constitutional obligation to provide relief from restraints that never had valid legal effect.

Petitioner repeatedly emphasized in his Rule 60(b) motion that "*any one* of [the] frauds upon the court or any one of Father's or his children's rights to due process automatically caused loss of jurisdiction and rendered all decisions in this case null and void by operation of law." This automatic nullification principle

recognizes that when properly invoked, "relief is not a discretionary matter; it is mandatory" and the court "must forthwith vacate the orders and judgements as void." The systematic judicial refusal to recognize this operation of law principle demonstrates why automatic enforcement mechanisms are necessary.

A. The Default Mechanism Under C.R.C.P. Rule 8(d) Must Be Given Meaningful Effect

This case presents an egregious situation where courts ignored both mandatory relief requirements and Respondent's default. Under Rule 8(d), which mirrors the federal rule, "averments in a pleading to which a responsive pleading is required... are admitted when not denied in the responsive pleading."

In both Rule 60(b) and habeas proceedings, Respondent failed to deny Petitioner's allegations that the protection order was void due to fraud, religious discrimination, and due process violations. Under Rule 8(d), these allegations were therefore admitted as established facts. Combined with the mandatory nature of relief, this default should have automatically vacated the underlying orders.

Instead, courts ignored both default's legal effect and the mandatory nature of relief from void judgments. This double failure demonstrates the need for an automatic mechanism giving meaningful effect to default in the void judgment context. When a judgment is alleged to be void and that allegation is admitted through default, the judgment should be automatically vacated without the need for further judicial action—particularly where, as here, the judiciary has demonstrated a systematic unwillingness to perform its constitutional duty.

B. The Criminal Context Requires Special Safeguards Against Prosecution Based on Void Civil Orders

This case demonstrates the dangerous consequences of allowing void civil orders to form the basis for criminal prosecutions. Petitioner was criminally prosecuted for violating a protection order that was void ab initio, yet the criminal courts refused to consider the voidness of the underlying order (App. C-8), and the appellate courts refused to address this fundamental jurisdictional defect.

This Court should establish a rule requiring automatic dismissal of criminal charges based on civil orders when:

1. The underlying civil order is established as void through default;
2. The civil order was obtained through documented and undisputed fraud;
3. The civil order was obtained in violation of religious freedom; and
4. The civil order was secured through systematic due process violations.

Such a rule would prevent misuse of the criminal justice system to enforce void orders and punish constitutionally protected conduct. As recognized in *Loper Bright*, courts must independently scrutinize alleged constitutional violations rather than defer to institutional practices—especially when criminal penalties are imposed based on underlying orders established as void by default or by operation of law.

C. The Systematic Refusal to Address Void Judgments Effectively Suspends the Writ of Habeas Corpus in Violation of the Constitution

"[T]he writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394

U.S. 286, 290-91 (1969). The Suspension Clause prohibits suspending this remedy except in rebellion or invasion. Yet, Colorado courts' refusal to address Petitioner's habeas challenge—despite respondent's default and clear evidence of a void judgment—effectively suspends the writ in violation of the Constitution. This is especially troubling in the context of void judgments, when habeas corpus is the last remedy after wrongful denial of Rule 60(b) relief.

In *Boumediene v. Bush*, 553 U.S. 723 (2008) this Court recognized that the Suspension Clause "guarantees an affirmative right to judicial inquiry into the causes of detention" and stressed its importance when other remedies have proven inadequate. The refusal to provide meaningful review of the protection order's validity—through either Rule 60(b) or habeas corpus—contravenes this essential constitutional protection.

Accordingly, this Court should establish a rule requiring automatic issuance of the writ when a habeas petition alleging a void judgment is unopposed, thereby giving full effect to the Suspension Clause and preserving habeas corpus as the fundamental safeguard of individual freedom.

CONCLUSION

Colorado's failure to provide mandatory relief from void judgments despite binding precedent, underscores the urgent need for an automatic enforcement mechanism. When courts systematically refuse to vacate void judgments, it is not merely a procedural error but a breakdown in the rule of law.

This case presents an extraordinary situation: a facially void protection order—procured through documented fraud during Jewish High Holy Days—continues to separate a father from his children despite constitutional prohibitions against such enforcement. The Colorado courts have created a perfect storm: religious discrimination, denial of any meaningful challenge, criminal prosecution based on a void order, and summary habeas denial despite respondent's default.

The stakes are extraordinarily high:

Petitioner has been barred from his daughter's wedding, prosecuted for a four-word parental text, and separated from his eight children by an order that never had valid legal effect. These irreparable injuries highlight the critical need to enforce that relief from void judgments is truly mandatory.

This Court should establish precedent that:

1. Relief from void judgments is mandatory, not subject to judicial discretion;
2. Default in the void judgment cases must be given meaningful effect;
3. Criminal prosecutions based on void civil orders require special safeguards;
4. Habeas relief cannot be summarily denied without opinion when respondent defaults; and
5. Under *Loper Bright*, courts must independently scrutinize void judgment claims rather than defer to lower courts when constitutional rights are at stake.

The petition presents a rare opportunity to create precedent ensuring automatic relief when the judiciary abdicates its duty to vacate void judgments—especially when such orders underpin criminal prosecutions and irreparably harm parent–child relationships. Without such automatic mechanisms, mandatory relief becomes an empty promise, leaving victims of injustice and judicial abdication without meaningful remedy.

The questions presented in this petition, together with those in the related certiorari petition, offer an ideal vehicle for establishing comprehensive precedent on void judgment enforcement and default procedures.

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted this 5th day of May, 2025,

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