


No. _____

**In the
Supreme Court of the United States**



BRYAN S. PEREZ AND LINDA QUACH,
AND ANY COMMUNITY ASSETS PURSUANT TO
ANY COMMITTED INTIMATE RELATIONSHIP,

Petitioners,

v.

MARY PELENTAY, INDIVIDUALLY AND A TRUSTEE
OF THE QUACH LIVING TRUST U/T/I AUGUST 27, 2021,

Respondent.

**On Petition to the Court of Appeals of the
State of Washington, Division One**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment's Due Process Clause permits a State to permanently extinguish recorded fee-simple title through a trust-and-estate proceeding resolved on summary judgment when the statutory vehicle and pleadings did not provide notice reasonably calculated to apprise deed holders that vested *inter vivos* title would be adjudicated and terminated, and when the deed holders were denied a meaningful opportunity to litigate quiet title before deprivation.

2. Whether the Fourteenth Amendment's Due Process Clause is violated when a state court applies an unexpected and indefensible reworking of settled deed-construction principles—including the four-corners rule and the rule construing ambiguities against the grantor—to invalidate facially unconditional *inter vivos* deeds based on post-execution extrinsic statements attributed to a deceased grantor.

PARTIES TO THE PROCEEDINGS

Petitioners and Appellants-Respondents below

- Bryan S. Perez
- Linda Quach
- Any Community Assets Pursuant to
Any Committed Intimate Relationship

Respondents and Respondent-Petitioner below

- Mary Pelentay, Individually and as Trustee
of the Quach Living Trust

LIST OF PROCEEDINGS

Supreme Court of Washington

No. 104602-2

In the Matter of the Estate of: Quach Living Trust

Order Denying Review: January 7, 2026

Washington Court of Appeals, Division One

No. 86535-8-I

In the Matter of the Estate of: Quach Living Trust,
Mary Pelentay, et al., *Respondent*, v. Bryan Perez,
et al., *Appellants*.

Opinion: June 30, 2025

Washington Superior Court, King County

No. 23-4-03951-1 KNT

In re: Quach Living Trust. Mary Pelentay, et al.,
Petitioner, v. Bryan Perez, et al., *Respondents*.

Judgment: March 6, 2024

(Hearing was held on March 5, 2024)

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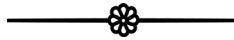
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OPINIONS BELOW

The Washington Court of Appeals, Division I entered its opinion on June 30, 2025. (App.3a). That decision affirmed the partial summary judgment and attorneys fee award of the King County Superior Court. (App.24a). These opinions were not designated for publication.



JURISDICTION

The judgment of the Washington Court of Appeals was entered on June 30, 2025. (App.3a) The Washington Supreme Court denied a petition for review on January 7, 2026. (App.1a). This Court has jurisdiction under 28 U.S.C. § 1257(a). This petition is timely because it is filed within 90 days of the denial of review.

Petitioners timely invoke this Court's jurisdiction because the state-court judgment finally extinguished Petitioners' asserted fee-simple title and necessarily decided Petitioners' Fourteenth Amendment due process claims regarding notice and a meaningful opportunity to be heard before permanent deprivation of real property.

Petitioners expressly raised their Fourteenth Amendment due process arguments in the Washington Court of Appeals and in their Petition for Review to the Washington Supreme Court. Petitioners argued that the TEDRA proceeding could not constitutionally be used to extinguish vested *inter vivos* deed title, that

summary judgment improperly resolved disputed issues of intent and delivery, and that denial of amendment deprived them of a meaningful opportunity to litigate quiet title before permanent deprivation. The Court of Appeals squarely rejected those arguments. The federal due process questions were therefore timely raised, pressed, and passed upon below.



CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Constitution, Amendment XIV, § 1

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



STATEMENT OF THE CASE

Petitioners Bryan S. Perez and Linda Quach seek review of a Washington judgment that permanently extinguished recorded, *inter vivos* fee-simple title without trial by routing a deed-validity dispute through a trust-and-estate proceeding. The Washington courts invalidated facially unconditional deeds based on post-execution extrinsic statements attributed to a deceased grantor and denied Petitioners a meaningful opportunity to litigate quiet title before deprivation. The result

was the extinguishment of fee-simple ownership without trial and through a procedural vehicle designed for trust administration rather than adverse title litigation.

The decision below both (i) employed procedures that denied Petitioners a meaningful opportunity to litigate title and assert counterclaims before deprivation, and (ii) applied an unforeseeable, retroactive reworking of settled deed-law principles by treating unconditional conveyances as “conditional” based on extrinsic, post-execution statements attributed to a deceased grantor.

Respondent initiated this matter by filing a pleading styled as a “TEDRA Petition to Claim and Distribute Asset on Behalf of Trust,” invoking Washington’s Trust and Estate Dispute Resolution Act (“TEDRA”), Chapter 11.96A RCW, as the governing statutory vehicle. The petition framed the controversy as one “concern[ing] the disposition” of property the trustor allegedly intended to be distributed under the Quach Living Trust and “Letters of Last Wishes,” and repeatedly characterized the dispute as involving assets or “property interest passing at death.” It further alleged that “multiple deeds, including Transfer on Death Deeds,” had “clouded the title.” In that posture, the petition asserted claims captioned “quiet title” and “ejectment” while grounding its quiet-title theory largely on post-execution writings and an asserted failure of consideration—*i.e.*, that the recorded statutory warranty deed should be treated as invalid because Perez supposedly did not prove payment of the recited \$50,000.

In operation, however, the case functioned not as a conventional quiet-title action adjudicating *inter vivos* conveyances under ordinary title-litigation safeguards, but as a trust-and-estate dispute proceeding used to unwind completed lifetime deeds and permanently

divest Petitioners of recorded fee-simple title. Petitioners maintained throughout that if the *inter vivos* deeds were valid, the property never entered any trust and could not be recovered through trust administration; the threshold question was deed validity and title vesting, not trust distribution. Nevertheless, the Washington courts resolved the dispositive issues on summary judgment and, in the process, treated facially unconditional *inter vivos* deeds as “conditional” by relying on post-execution extrinsic statements attributed to a now-deceased grantor and conveyed through third parties—without a trial and while denying Petitioners a meaningful opportunity to plead counterclaims and fully litigate title before permanent deprivation.

1. The Deeds, Consideration, and Vesting of Title Before Trust Creation

This case arises from the conveyance of real property located at 426 S. 193rd Street, Des Moines, Washington. On July 24, 2021, the grantor executed and notarized deeds conveying the property to Petitioner Perez. The deeds are facially unconditional, recite consideration, and satisfy Washington statutory formalities for conveyances. Petitioners physically possessed the executed deeds and relied on the conveyances by paying substantial consideration, including paying off the mortgage (over \$353,000) and undertaking financial obligations consistent with ownership.

On August 16, 2021, the grantor executed and notarized a further warranty deed to Perez, with an effective date of August 21, 2021. This deed, too, is facially unconditional and recites consideration, and it predates the creation of any trust instrument relied upon by Respondent. Petitioners’ position throughout

is that, at the time of these *inter vivos* conveyances, title vested under settled deed-law rules governing execution, acknowledgment, and delivery.

After these deeds, on August 27, 2021, the grantor created a trust and executed a transfer-on-death deed (TODD) naming the trust as beneficiary. Petitioners contend that because title had already vested in Perez through the prior deeds, the grantor no longer held a transferable interest that could be redirected to a trust via a later TODD.

2. The TEDRA Proceeding and the Retroactive Invalidation of Deeds

Respondent Mary Pelentay, individually and as trustee of the Quach Living Trust, pursued relief through a TEDRA action in Washington Superior Court, styling the dispute as a trust matter seeking recovery of property “alleged” to have passed to the trust at death. Petitioners maintained that the case was not a trust administration controversy at all because the operative conveyances occurred during the grantor’s lifetime, before trust creation, through deeds satisfying statutory formalities. On Petitioners’ account, if the deeds were valid, the property never entered the trust and the core legal question is deed validity and title vesting, not trust administration.

Despite the deeds’ facial validity and the timing of the conveyances, the Washington courts treated the dispute as a TEDRA matter and upheld a result invalidating the deeds based on extrinsic evidence and post-execution communications attributed to the deceased grantor and conveyed through third parties. Critically, the TEDRA action did not give notice it was seeking to unwind completed *inter vivos* conveyances—so Peti-

tioners had no constitutionally fair warning that the proceeding would operate as a mechanism to forfeit vested deed title.

Petitioners consistently argued that this method of decision-making displaced settled deed-law expectations—particularly rules limiting contradiction of unambiguous instruments and the presumption arising from possession and delivery—and retroactively transformed completed conveyances into “conditional” transactions without conditions appearing on the face of the deeds.

3. The Denial of Counterclaim/Amendment as a Process Defect in a Title-Stripping Proceeding

Petitioners further sought to assert counterclaims and defenses in response to the TEDRA petition. They moved to amend multiple times and contend the trial court denied leave based on technical pleading defects, rather than substantive prejudice or futility, in a proceeding that ultimately divested them of vested real-property title. Petitioners contend this procedural handling—coupled with the court’s use of TEDRA posture to adjudicate adverse title—deprived them of a meaningful opportunity to fully present their claims and defenses in a title-stripping case.

4. The Decision Below

The Court of Appeals affirmed summary judgment in favor of respondent and held that the TEDRA proceeding properly encompassed adjudication of the disputed deeds. The court concluded that the matter fell within the scope of RCW 11.96A as involving questions “arising in the administration of an estate or trust” because it was brought by the trustee “for the recovery

of property alleged to have passed to the Quach Living Trust upon Betty's death," and was therefore "a trust matter." It rejected Petitioners' contention that the case required full adjudication as a conventional title action.

On the merits, the court held that no genuine issue of material fact existed as to the validity of the *inter vivos* conveyances. Although the statutory warranty deed was facially executed and recorded, the court concluded that summary judgment was proper because "there was no genuine issue of material fact as to Betty's lack of intent to deliver the deeds to Perez." Relying on post-execution statements reflected in the "Letters of Last Wishes" and related communications, the court concluded that the deed did not effectuate a completed transfer of title and affirmed its nullification.

The Court of Appeals further upheld dismissal of Petitioners' counterclaims and denial of amendment, concluding that additional pleading would not alter the dispositive analysis. In doing so, the court effectively permitted permanent extinguishment of recorded fee-simple title through summary judgment within a trust-and-estate proceeding.

The Washington Supreme Court denied review.



REASONS FOR GRANTING THE PETITION

Petitioners respectfully request that this Court grant certiorari to review a state-court judgment that extinguished vested *inter vivos* real-property ownership created by facially valid, executed, acknowledged, and delivered deeds, and that did so through a retroactive reinterpretation of settled deed-construction principles and through procedures that denied a meaningful opportunity to litigate title before deprivation. The decision below raises substantial federal constitutional questions under the Fourteenth Amendment's Due Process Clause.

This petition warrants review under Supreme Court Rule 10(c) because it presents an exceptionally important federal question concerning the minimum procedural safeguards the Fourteenth Amendment requires before a State may permanently extinguish recorded fee-simple title through a trust-and-estate dispute proceeding. The decision below also warrants review because it departs from this Court's settled due process requirements for notice and a meaningful opportunity to be heard before permanent deprivation of property.

The Questions Presented are addressed in order.

I. A State Court Violates the Fourteenth Amendment When It Uses a Trust-and-Estate Dispute Statute to Extinguish Vested *Inter vivos* Title on Summary Judgment While Denying a Meaningful Opportunity to Litigate Title

The decision below extinguished petitioners' vested fee-simple title—acquired through facially valid, executed, acknowledged, and delivered *inter vivos* deeds—without the procedural safeguards the Constitution demands before permanent deprivation of real property. That result occurred in a trust-and-estate proceeding that (i) provided no fair notice—either from the TEDRA pleadings or from TEDRA's trust-administration purpose—that Petitioners could lose vested deed title to their home through this proceeding, (ii) resolved sharply disputed issues of intent and delivery on summary judgment by crediting extrinsic post-execution statements from a now-deceased grantor, and (iii) denied petitioners any meaningful chance to assert counterclaims for quiet title or amend their pleadings to litigate the merits.

The constitutional defect lies in the combination of procedures employed: Washington used a trust-and-estate dispute vehicle to effectuate a final divestiture of recorded fee-simple title without constitutionally adequate notice that title was at stake and without a meaningful merits forum to litigate title before deprivation became final.

A. Governing Constitutional Standards

Under the Fourteenth Amendment, our Constitution imposes on the States the standards necessary to ensure that judicial proceedings are fundamentally

fair. *Lassiter v. Department of Social Svcs.*, 452 U.S. 18, 34 (1981). The Fourteenth Amendment provides that “No State shall . . . deprive any person of life, liberty, or property, without due process of law.” This Court has long held that the Due Process Clause protects vested property interests from arbitrary or procedurally inadequate deprivation, and a primary concern is the fairness and adequacy of the procedures by which the State deprives a person of a protected property interest. See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950); *United States v. James Daniel Good Real Property*, 510 U.S. 43, 53 (1993) An essential principle of due process is that a deprivation of life, liberty, or property “be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *Id.*

At the heart of this case is the procedures of Chapter 11.96A RCW. When one private party invokes state processes to seize or nullify another’s property, the State’s involvement is “substantial enough to implicate the Due Process Clause” and require notice and a meaningful opportunity to be heard before permanent deprivation. *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 486 (1988); see *Connecticut v. Doebr*, 501 U.S. 1, 11 (1991) (held that a state statute authorizing the prejudgment attachment of real estate without prior notice or hearing . . . did not satisfy due process requirements). In this regard, “a statute . . . may be held constitutionally invalid as applied when it operates to deprive an individual of a protected right although its general validity as a measure enacted in the legitimate exercise of state power is beyond question.” *Boddie*, 401 U.S. at 379.

Mathews v. Eldridge supplies the governing framework for assessing whether procedures are constitutionally sufficient. 424 U.S. 319, 335 (1976). Under *Mathews* due process requires consideration of: (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used and the value of additional safeguards; and (3) the government’s interest. This Court has recognized that heightened procedural safeguards are required where the private interest is weighty and the risk of error substantial. See *Santosky v. Kramer*, 455 U.S. 745, 756 (1982).

The private interest here—vested ownership of real property—implicates the core of due process protection, and the procedures used created an unusually high risk of error given the combination of (i) summary judgment resolution of intent and delivery issues, (ii) reliance on post-execution narratives to override unconditional instruments, and (iii) restrictions that prevented Petitioners from fully litigating title through counterclaims and amendment.

B. The Procedures Employed Created an Unacceptable Risk of Erroneous Deprivation

This case involves the most severe civil deprivation a court can impose with respect to property: the permanent nullification of claimed fee-simple ownership. Petitioners were not subjected to a temporary restraint or a regulatory limitation; the state courts declared their claimed title void. This Court has repeatedly emphasized that due process exists to protect persons from arbitrary or mistaken deprivations of property and to ensure that the State employs fair decision-making before it takes property away. See *Fuentes v. Shevin*, 407 U.S. 67, 81–82, 86 (1972); *Armstrong v. Manzo*,

380 U.S. 545, 552 (1965). When the deprivation concerns vested real property, the constitutional demand for meaningful process is at its apex.

First, the application of Chapter 11.96A RCW to extinguish vested *inter vivos* title violates due process because it did not give constitutionally adequate notice that Petitioners' recorded fee-simple deed title would be adjudicated and extinguished. The Court of Appeals rejected Petitioners' contention that the case was not properly a trust matter, stating that the issue was within TEDRA because it was brought by a trustee for recovery of property "alleged to have passed to the Trust."

Second, the trial court granted summary judgment invalidating the deeds and extinguishing claimed fee title without analyzing the August 21 deed, treated unconditional deeds as "conditional," and relied on post-execution statements attributed to the decedent.

Third, Petitioners sought to assert counterclaims and amend. Where the consequence is extinguishment of vested title, denial of a fair pleading pathway magnifies constitutional risk—especially where the denial turns on technical defects rather than the kind of prejudice/futility analysis that preserves merits adjudication—preventing the meaningful adjudication of substantive rights.

Petitioners do not seek federal error correction of Washington procedure; they challenge the adequacy of the procedure as applied, given the magnitude of the interest at stake and the risk of erroneous deprivation created by the combination of truncated pleading, summary adjudication of disputed intent, and use of a

trust proceeding as the vehicle for extinguishing *inter vivos* deed title.

1. TEDRA Provided No Fair Notice That It Could Be Used to Extinguish Vested *Inter Vivos* Title, and the Procedures Used Were Constitutionally Inadequate in Operation

Due process is violated when a State deprives a person of property through an unforeseeable procedural pathway that fails to provide fair notice of the nature and stakes of the proceeding. *Bouie v. City of Columbia*, 378 U.S. 347, 354 (1964). Judicial constructions that are “unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue” deny the fair warning the Fourteenth Amendment requires. *Id.* Moreover, when private parties invoke state procedures with the overt, significant assistance of state officials, the resulting deprivation constitutes state action subject to due process constraints. *Tulsa Prof'l Collection Servs., Inc. v. Pope*, 485 U.S. 478, 486 (1988).

Significantly, “[e]lementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose.” *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 574 (1996)

Petitioners’ contention is that a deed holder who acquired and relied upon facially valid *inter vivos* conveyances had no fair reason to anticipate that those rights could be extinguished through a trust-and-estate dispute mechanism in a manner that functionally denied ordinary title-litigation safeguards. *Bouie’s* fair-warning

principle reinforces the core procedural due process problem: the State used procedures that, in operation, were not meaningfully adequate to the deprivation imposed.

The Washington courts' application of TEDRA, Chapter 11.96A RCW, to extinguish petitioners' vested *inter vivos* title presents pragmatic and systematic due-process violation as applied. TEDRA (Chapter 11.96A RCW) furnished no fair notice that it could be transformed into a mechanism for extinguishing pre-trust *inter vivos* deeds. *Cf. Good*, 510 U.S. at 53 (stressing that due process's purpose is 'to protect [one's] use and possession of property from arbitrary encroachment—to minimize substantively unfair or mistaken deprivations').

TEDRA is expressly limited to disputes "concerning the administration and distribution of trusts [and] estates." Wash. Rev. Code § 11.96A.020. Nothing in its text or structure warns deed holders that completed, statutorily compliant lifetime conveyances executed before any trust existed could later be undone through summary proceedings styled as trust litigation.

The petition framed the controversy as a dispute over "property interest passing at death" and "distribution" under TEDRA, not as an adverse-title action seeking to unwind completed *inter vivos* conveyances. As applied, the procedure therefore failed to provide notice "reasonably calculated" to apprise Petitioners that their recorded fee-simple deed title would be adjudicated and terminated in that forum. *Mullane*, 339 U.S. at 314.

When the State channels a property deprivation through a procedural vehicle that, in operation, deprives

the affected party of the ordinary ability to litigate title, due process is implicated at its most basic level. *See Mullane*, 339 U.S. at 313; *Armstrong*, 380 U.S. at 552. And where the State effectively monopolizes the forum and process for adjudicating the property right, due process requires that the forum be meaningfully available in practice, not illusory. *See Boddie v. Connecticut*, 401 U.S. 371, 377–78 (1971).

Petitioners contend that Chapter 11.96A RCW (TEDRA) did not give fair warning that it could be used to nullify completed *inter vivos* deeds executed, acknowledged, delivered, and relied upon before a trust existed, and that its application as a title-extinguishment mechanism was unforeseeable in operation.

Due process is not satisfied when the proceeding that divests property is one where the affected owner had no constitutionally meaningful notice that his property rights would be adjudicated and terminated through that vehicle. *Scott v. McNeal*, 154 U.S. 34 (1894). Here, as in *Scott*, Washington used a trust-and-estate dispute mechanism to accomplish a final divestiture of land, yet Petitioners had no fair warning from the TEDRA posture and pleadings that their vested *inter vivos* deed title would be adjudicated and extinguished, and they were denied a meaningful opportunity to litigate title before deprivation became final.

Petitioners, having relied on facially valid deeds that predated the trust by weeks, had no reason to anticipate that their title would be adjudicated and extinguished in a forum designed for trust administration rather than adverse-title litigation.

In addition, due process minima are matters of federal constitutional law, not matters left to state

characterization. As *Logan v. Zimmerman Brush Co.* explains, “minimum [procedural] requirements [are] a matter of federal law,” and “are not diminished by the fact that the State may have specified its own procedures that it may deem adequate.” 455 U.S. 422, 432 (1982) (quotation in original). Significantly, the state statute “may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards. . . . [T]he adequacy of statutory procedures for deprivation of a statutorily created property interest must be analyzed in constitutional terms.” *Id.*

That principle applies with special force where, as here, the state court’s approach (i) expands a statutory dispute-resolution framework beyond its apparent scope and (ii) uses that expanded framework to extinguish vested title.

Here, a deed holder who acquired title through facially valid *inter vivos* deeds had no fair notice that title could later be extinguished through trust litigation. Viewed in operation, TEDRA created an unacceptably high risk of erroneous deprivation of vested fee-simple title. That result cannot survive constitutional scrutiny under *Mathews*.

2. Disputed Issues of Intent and Delivery Were Resolved on Summary Judgment in a Title-Extinguishment Context

The Washington courts resolved sharply contested questions of donative intent and delivery on partial summary judgment by crediting third-party accounts of the deceased grantor’s later “intent.” The Court of Appeals expressly held that “there was no genuine issue

of material fact as to Betty’s lack of intent to deliver the deeds,” and that “the undisputed evidence shows that Betty did not have the intent to deliver the July 24 deeds.”

Intent and delivery are quintessentially factual, credibility-laden determinations that traditional conveying law reserves for trial when genuinely disputed. By permitting extrinsic, post-execution statements from interested third parties to override the unambiguous text of facially unconditional, statutorily compliant deeds, the courts dramatically heightened the risk that title would turn on unreliable post-hoc narratives rather than the instruments themselves and the objective facts of execution, acknowledgment, and delivery. *Mathews v. Eldridge*, 424 U.S. 319, 343–44 (1976).

The constitutional defect lies in deploying summary judgment as the final mechanism for permanently extinguishing vested fee-simple title amid hotly contested factual issues. Where resolution turns on competing accounts of donative intent—particularly statements attributed to a now-deceased grantor—summary judgment deprives the deed holder of the opportunity to test credibility through cross-examination and live factfinding. Due process requires procedures commensurate with the risk of error when the consequence is permanent divestiture of land.

Due process demands procedures commensurate with the stakes and the inherent risk of error. *Id.* at 335. When the consequence is irrevocable loss of a home acquired through completed conveyances supported by substantial consideration, adjudication on a paper record—without cross-examination or live factfinding—fails the *Mathews* balance. It elevates efficiency over

the “meaningful opportunity to be heard” the Constitution requires before the State destroys vested real-property rights. *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *See, e.g., Cleveland Board of Education v. Loudermill*, 470 U. S. 532, 542 (1985).

The Court of Appeals held that the challenged evidence was properly considered because “the parties dispute the validity of the July 24 deeds,” and that extrinsic evidence was admissible to determine delivery and intent.

The deeds were unconditional on their face, recited consideration, bore notarial acknowledgments, and were delivered to petitioners. Yet the courts treated them as conditional, elevated later extrinsic communications attributed to the now-deceased grantor, and resolved the entire controversy without trial. This marked a structural departure from foundational conveyancing norms that begin and end with the deed itself to protect the stability of completed transfers. When a court elevates post-execution narratives over an unconditional instrument and extinguishes vested title, the deprivation is arbitrary in the constitutional sense. *Good*, 510 U.S. at 53.

3. The Denial of Counterclaims and Amendment Denied a Meaningful Opportunity to Litigate Title

Petitioners repeatedly moved to amend their pleadings and assert counterclaims for quiet title and related relief. The trial court denied those motions on purely technical grounds under CR 15(a). In a proceeding that resulted in permanent extinguishment of vested

title, that foreclosure of merits adjudication compounded the risk of erroneous deprivation.

This Court has long required that leave to amend “shall be freely given when justice so requires,” and that outright refusal without justifying reason is an abuse of discretion. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Procedural technicalities cannot operate as traps that prevent a litigant from presenting the very claims that would preserve his property. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 432 (1982). Combined with the mismatched statutory vehicle and summary resolution of disputed facts, the denials left petitioners no realistic opportunity to litigate the merits of their title before it was irrevocably stripped away—directly violating the central command of due process: a “meaningful opportunity to be heard.” *Armstrong*, 380 U.S. at 552; *Mathews*, 424 U.S. at 333.

The Court of Appeals affirmed denial of leave to amend solely because Petitioners failed to attach a pleading denominated “proposed” under CR 15(a). Where the remedy imposed is loss of deed title, denying amendment on a caption technicality (*e.g.*, omission of “Proposed”) compounds the notice defect by ensuring the deed holder never receives a merits forum to litigate quiet title before the forfeiture becomes final.

C. Rule 10 Grounds for Review

This case warrants review under Rule 10(c) because it presents an exceptionally important federal question concerning the minimum due-process safeguards required before a State may permanently extinguish recorded title. The procedures used here combined (1) a statutory vehicle that did not give notice reasonably calculated to apprise Petitioners that deed title would

be terminated, (2) summary adjudication of disputed intent and delivery based on post-execution narratives, and (3) pleading and amendment rulings that foreclosed a merits forum for quiet-title counterclaims. In combination, those features created an intolerable risk of erroneous deprivation and denied the “meaningful opportunity to be heard” that due process requires before the State effects a permanent deprivation of property.

This case also presents an issue of exceptional national importance with systemic implications for the stability of recorded title. American deed-recording systems rest on the settled expectation that vested *inter vivos* title, once validly conveyed, will be adjudicated under predictable norms: a full opportunity to plead claims and defenses and to obtain factfinding where intent and delivery are genuinely disputed.

The decision below departs sharply from those norms by permitting a trust-and-estate statute to function as a title-stripping vehicle—resolved on summary judgment while foreclosing counterclaims and amendments through technical barriers. If permitted to stand, such a model would render deed-based ownership contingent on litigation posture rather than the legal finality of executed instruments, spawning unpredictability in real-property transactions and eroding the reliability that lenders, purchasers, and title insurers place in recorded conveyances nationwide.

This Court’s supervisory authority is needed to reaffirm that statutes cannot be judicially expanded retroactively to deprive property without fair warning, that litigants must receive a meaningful opportunity to be heard on the merits rather than be denied it by unforeseeable procedural shifts, and that modern procedural rules cannot be turned into technical traps

that prevent merits adjudication in cases involving profound deprivations.

The petition should be granted.

II. A State Court Violates the Fourteenth Amendment When It Retroactively Redefines Settled Deed-Construction Rules to Invalidate Unconditional Conveyances Based on Post-Execution Extrinsic Statements

A. The Decision Below Departs from One of the Oldest and Most Settled Rules of American Property Law

Recorded conveyances are relied upon nationwide as stable, objective evidence of ownership. For more than two centuries, American courts have adhered to a foundational principle of private deed construction:

First, it is a well-known rule in the construction of private grants, if the meaning of the words be doubtful, to construe them most strongly against the grantor. *Bender v. Fromberger*, 4 U.S. (4 Dall.) 436, 440 (1806); *Proprietors of Charles River Bridge v. Proprietors of Warren Bridge*, 36 U.S. (11 Pet.) 420, 589 (1837); *Van Rensselaer v. Kearney*, 52 U.S. (11 How.) 297, 323 (1850); *Bush v. Cooper's Administrator*, 59 U.S. 82 (1856).

Second, “the Court will first take the instrument by its four corners, in order to ascertain its true meaning.” *Lessee of Ewing v. Burnet*, 36 U.S. (11 Pet.) 41, 54 (1837)

These principles are not isolated dicta; they are structural safeguards protecting reliance and stability in conveyancing. The rules exist to ensure that parties

may rely on the written instrument and that ambiguity, if present, is resolved in favor of the grantee who has relied upon the grant.

American property law rests on stable interpretive principles that protect reliance on written conveyances. Two such principles are not parochial Washington doctrines; they are deeply rooted national rules recognized by this Court since the early Republic: (1) the four-corners rule, requiring courts to ascertain meaning from the instrument itself before resorting to extrinsic matter, and (2) the rule that ambiguities in private grants are construed against the grantor and in favor of the grantee. Those rules are not technicalities. They are the legal infrastructure that allows people, lenders, title insurers, and courts to treat recorded deeds as reliable instruments rather than starting points for later credibility contests about what a deceased person “really meant.”

B. Due Process Was Violated When Construction Rules Were Inverted

The deeds at issue were facially unconditional. They recited consideration, were executed and acknowledged, and were delivered. Yet the Washington courts treated them as conditional based on post-execution extrinsic communications attributed to a now-deceased grantor and conveyed through third parties. The court allowed those communications to override the plain text of the instruments and resolved doubt adversely to the grantee.

This was not merely a doctrinal refinement. It resulted in the permanent nullification of recorded fee-simple title based on post-execution narratives attributed to a deceased grantor—without trial and

without the objective safeguards that deed formalities exist to provide. When a State extinguishes vested property rights by elevating untested third-party accounts over unconditional recorded instruments, the deprivation becomes arbitrary in the constitutional sense. Instead of beginning and ending with the deed’s text and resolving ambiguity in favor of the grantee, the court elevated post-execution narratives over unconditional language and construed uncertainty against the deed holder.

The deprivation occurred after execution, delivery, recording, and substantial reliance—when the grantor was no longer available—magnifying the risk of erroneous deprivation and the arbitrariness of divesting vested title based on third-party accounts of intent.

C. The Nullification of Vested Title Through an Unforeseeable Application of Construction Principles Violates Due Process

Under *Bowie*, judicial expansions violate due process when they are unexpected, indefensible by reference to prior law, and retroactively applied to deprive rights. 378 U.S. at 354. Property law is uniquely dependent on stability. Individuals must be able to rely on the settled interpretive principles governing conveyances at the time of execution and delivery. If those principles may be inverted after the fact, reliance becomes meaningless.

The Due Process Clause protects not only procedural formalities but the fairness and predictability of the legal rules applied to vested rights. As Fuentes explained, due process exists to prevent “substantively unfair or mistaken deprivations of property.” 407 U.S. at 81–82. When a court retroactively redefines how

deeds are construed and applies that redefinition to extinguish vested title, the deprivation becomes arbitrary in precisely the manner the Fourteenth Amendment forbids. *Good*, 510 U.S. at 53.

A deed holder is entitled to rely on the settled national rules that (1) courts look first to the four corners of the instrument, and (2) doubts in private grants are resolved against the grantor. When a state court inverts those rules after the fact and uses extrinsic, post-execution statements to nullify unconditional conveyances, it destabilizes the reliance interests those doctrines exist to protect. The Constitution does not permit such retroactive destruction of vested property rights.

D. Rule 10 Grounds for Review

This issue warrants review under Rule 10(c) because the decision below permits permanent divestiture of recorded title through a procedure that departs from the objective, reliance-protecting principles this Court has long recognized as essential to fair adjudication of private grants. The decision permits a state court to apply an unforeseeable reinterpretation of foundational property rules to extinguish vested rights, in tension with this Court's due-process jurisprudence protecting fair notice and reliance.

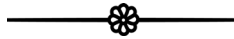
Across States, trust-and-estate proceedings are increasingly used to relitigate lifetime transfers after death. If recorded *inter vivos* deeds can be nullified through summary proceedings based on post-execution hearsay of intent, deed formalities and recording systems lose their stabilizing function.

Review is also warranted under Rule 10(c) because the four-corners doctrine and the rule construing

ambiguity against the grantor are not local technicalities; they are structural pillars of American property law. If state courts may invert those principles retroactively and elevate post-execution narratives over unconditional recorded instruments, the stability of title systems across jurisdictions is compromised. Real-property markets, lending practices, and title insurance depend on predictable interpretive rules. Allowing retroactive judicial redefinition of those rules threatens systemic instability.

This Court's intervention is necessary to reaffirm that foundational deed-construction principles cannot be retroactively altered to destroy vested property rights without violating the Fourteenth Amendment.

The petition should be granted.



CONCLUSION

This case presents two independent constitutional violations: first, the procedural extinguishment of vested *inter vivos* title through a trust-and-estate proceeding resolved on summary judgment without meaningful opportunity to litigate; and second, the retroactive judicial redefinition of settled deed-construction principles to invalidate unconditional conveyances and destroy vested property rights.

Trust and estate proceedings cannot constitutionally be used as post-mortem vehicles for challenging lifetime transfers without adequate procedural safeguards. If recorded *inter vivos* deeds may be nullified through summary trust litigation based on post-execu-

tion hearsay of intent, the reliability of recording systems and title insurance nationwide is compromised.

Both questions are nationally significant in that they implicate this Court's due process precedents governing notice, fair warning, and meaningful opportunity to be heard. Further, both implicate the structural stability of American property ownership.

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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