

25-1296

No.

Supreme Court, U.S.
FILED

FEB 14 2026

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

SAMUEL COLLIN ROBINSON,
Petitioner

v.

KATHERINE LYMAN FREEMAN,
Respondent

On Petition for Writ of Certiorari
to the Colorado Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS TO REVIEW

Time with each parent is allocated to children of divorce according to state statute listing some of the factors to be considered by courts. Colorado Revised Statutes 14-10-124(1.5)(a)(I) – (XI). Similar factors are used in all 50 states. The list does not include evaluation standards for its various topics. This absence prompts questions of law. Does lack of objective criteria leave the factors so vague that they fail to give parents adequate notice of what must be done to receive equal parenting time? Should the factors be struck down as unconstitutional for violating the Due Process provision of the 14th Amendment? Without specific standards, can the factors be dispositive? May a motion to modify parenting time be summarily denied for declining to recite the litany?

PARTIES TO THE PROCEEDING

All parties to this proceeding are named by the caption on the cover page of this booklet. Katherine was the original Petitioner in Colorado District Court for Mesa County case 2012DR0018. Collin was the Respondent. Although the motion at root of the present petition was filed by Collin, the district court continues to use the original party designations. These are the opposite of the designations for the present petition, so confusion could ensue. Therefore, names are used in this petition, in the interest of clarity. Katherine is represented by counsel, Joshua Martin, Esq. The State of Colorado may opt to intervene, per United States Code, Title 28, Section 2403(b).

RELATED PROCEEDINGS

- In Re the Marriage of Robinson*, 2025SC589,
Colorado Supreme Court. Order filed November
24, 2025. Appendix B.
- In Re the Marriage of Robinson*, 2025CA0306,
Colorado Court of Appeals. Opinion on the
merits announced August 14, 2025. Mandate
issued November 25, 2025. Appendix A and D.
- In Re the Marriage of Robinson*, 2012DR18, District
Court for Mesa County, Colorado. Order filed
by Judge on February 12, 2025. Appendix G.
- In Re the Marriage of Robinson*, 2012DR18, District
Court for Mesa County, Colorado. Order filed
by Magistrate on February 6, 2025. Appendix I.

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156-157, 189 (2018). 14, 19

REFERENCE

Black’s Law Dictionary,
p 128 (12 ed., 2024). 17, 18

OPINIONS BELOW

¶1 On November 24th, 2025, the state court of last resort, the Colorado Supreme Court, declined certiorari review of this case by an unpublished order that appears as Appendix B to the present petition. The Colorado Court of Appeals is the highest state court to review the merits of the case. The unpublished opinion of that court was announced on August 14th, 2025, and it appears verbatim as Appendix D to this petition. This is the order presented for review here.

JURISDICTION

¶2 Collin pleads for the United States Supreme Court to exercise discretionary jurisdiction, given by United States Code, Title 28, Section 1257(a), to review this case, because the validity of state statute is drawn in question on grounds that it is repugnant to the federal constitution. As the highest state court to address the merits of this case decided to defend statute that violates the constitution, and, as similar laws violate the constitution in the other states, this topic elicits continuing public interest. The issue is ripe to be taken up for the first time by the Supreme Court, where judicial review can settle the important questions of federal law presented by this case. United States Supreme Court Rule 10(c). The Attorney General of Colorado is being served notice, simultaneous with this petition. Rule 29.4(c).

LEGAL PROVISIONS CONCERNED

¶3 Colorado Revised Statutes, Title 14, Article 10, Section 124: This is the state statute under scrutiny here. The statute is lengthy. The pertinent portions are found in subsections 1 and 1.5. Appendix N.

¶4 Constitution of the United States of America, Amendment 14, Section 1: This is the federal law that governs the present appeal. The relevant part is, "...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

¶5 On May 20th, 2005, Katherine and Collin married. In due time, they were blessed with a daughter and then a son. On October 18th, 2012, the District Court for Mesa County, Colorado, decreed the marriage dissolved, with parenting time allocated according to a stipulated parenting plan. Katherine later remarried and changed surname. The parenting plan went through a couple of revisions over the years, whittling away time the children get with Collin. The first revision was appealed all the way to the United States Supreme Court, where certiorari was denied on November 18th, 2019, in case 19-356. On January 14th, 2022, the district court adopted the current version, proposed by Katherine during a contested hearing. The plan gives Katherine 86% of the parenting time,

while giving just 14% to Collin. This hegemony sabotages the relationships between Collin and the children. Collin appealed all the way to the United States Supreme Court, where certiorari was again denied on October 7th, 2024, in case 23-1244.

¶6 On November 12th, 2024, Collin renewed the effort by filing a Verified Motion to Modify Parenting Time with the district court for Mesa County, Colorado. Appendix M. This motion gives rise to the present petition. The motion seeks replacement of the existing parenting plan with a new plan to restore balance to the parenting time schedule. On November 14th, 2024, Katherine filed an objection, alleging that the motion failed the particularity requirement of Colorado Rules of Civil Procedure 7(b)(1) by neglecting to address the factors listed by Colorado Revised Statutes 14-10-124(1.5)(a)(I) – (XI). Appendix L. On November 19th, 2024, Collin filed a response explaining that the factors were not addressed because they lack evaluation standards and are, therefore, not dispositive. The response also gave additional information in the form of a detailed example of the dysfunction to be cured by the new plan, so the court could ascertain that genuine issues exist and necessitate a hearing. Appendix K. Without holding a hearing, Magistrate Garcia issued an order, on February 6th, 2025, directing that the motion be denied for failing the particularity requirement. No further explanation was given. The

flaw in the statute and the additional information were ignored. Appendix I.

¶7 On February 10th, 2025, Collin filed a Petition for Judicial Review of the magistrate's order. The petition addressed the particularity requirement and pointed out that no amount of detail in the text of a motion can overcome the deficiency of the statute. The lack of objective criteria leads to violation of due process and equal protection rights granted by the 14th Amendment. Appendix H, p 76. This was the stage in the proceeding when the federal questions were raised before the court of first instance, preserving the issues on appeal. On February 12th, 2025, Judge Lawrence issued the order of the district court, adopting the magistrate's decision. As basis, the Judge found that Collin, "...[did] not identify specifically the provision of the parenting time order that was violated". Appendix G, p 70. This finding was out of place, because neither the motion to modify parenting time, nor the petition for judicial review were based on, or even mentioned, any violation of the plan, so of course they did not identify a violated provision. Violation is not a requirement for modification. The order made no mention of evaluation standards or constitutionality of statute, important issues that were raised by the petition and ignored by the district court.

¶8 The judge's adoption of the magistrate's order, without even acknowledging that due process and constitutionality of statute were questioned by the

petition for review, appears to defy explanation. Additional information is necessary to understand the mistake made by the judge. While the events described by the preceding paragraphs were occurring, a second series of events was going on in parallel. On December 17th, 2024, Collin filed a motion concerning parenting time disputes that sought an increase of the bond paid by Katherine to the district court. The motion cited a specific violation of the existing parenting plan and proposed relief designed to support future compliance.

Appendix J. On February 15th, 2025, Magistrate Garcia issued an order directing that the motion to increase the bond be set for hearing. Appendix F.

¶9 The facts of the case indicate that the district court judge confused or conflated the motion to modify parenting time with the separate motion to increase the compliance bond. This failure to recognize the two motions as discrete actions lead to subsequent failure to consider the issues raised by the petition for judicial review, including violation of a constitutional right to due process. Appendix G, p 70, and H, p 76.

¶10 Although a final order was issued by the district court, the primary questions requiring review were missed or skipped outright, so Collin raised the issues to the Colorado Court of Appeals, sending an opening brief on May 7th, 2025. Appendix E. This was the stage in the proceeding when the federal questions were raised for review before the appellate

courts. With panel concurrence, Judge Freyre affirmed the district court order on August 14th, 2025. Appendix D.

¶11 The court of appeals was correct to point out that, although the elder of the two children in this case was a minor when the motion to modify parenting time was filed, in 2024, that child reached 18 years of age in 2025, so parenting time is no longer applicable to one of the two children. The questions of law remain valid, as they relate to the younger child, who is 16 years of age at present. There is no dispute as to the dismissal in part, relating to the elder child. Also, the court of appeals was correct that the standard for questions of statutory constitutionality is de novo review. Appendix D, Paragraph 6. The other assertions of the court of appeals were not correct. The opinion that affirmed the district court order remains at issue, as discussed in detail under a subsequent heading – Reasoning of the Court of Appeals.

¶12 Faults within the opinion of the Colorado Court of Appeals were raised to the Colorado Supreme Court by a petition for writ of certiorari, mailed on September 18th, 2025. Appendix C. On November 24th, 2025 the Colorado Supreme Court declined to consider the merits of the case. Appendix B. Justice Hart did not participate. The next day, November 25th, 2025, the Colorado Court of Appeals issued its mandate. Appendix A. The present petition raises

unresolved questions of constitutional law to the United States Supreme Court.

REASONS TO GRANT WRIT

¶13 The Right to Bring Up Children: The 14th Amendment of the Constitution of the United States provides that no State shall, “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Supreme Court holds that, without doubt, the liberty protected by this Due Process provision includes the right of individuals to bring up children. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

¶14 Parenting Time Factors: Time with each parent is allocated to children of divorce according to state statute listing some of the factors to be considered by courts. Colorado Revised Statutes 14-10-124(1.5)(a)(I) – (XI). Appendix N. Similar law prevails in all 50 states.¹ Some states, like Kentucky, set forth an explicit presumption of equal allocation of time for each parent to participate in bringing up their children. Even there, statute lists factors to consider for unequal allocation. Kentucky Revised Statutes 403.270(2)(a)-(k). Appendix O.

¹ <https://www.justia.com/family/child-custody-and-support/child-custody-forms-50-state-resources/> Date viewed: 2026.01.23

¶15 Vagueness of Factors: Although Colorado Revised Statutes 14-10-124(1.5)(a)(I)-(XI) specify some factors to consider, the list fails to give standards for evaluation of information relating to the factors, leaving the statute ambiguous and well short of dispositive. As example, one factor, listed by (1.5)(a)(IV), directs courts to consider adjustment of a child to their home, school, and community in determining their best interests for the purpose of allocating parenting time. By what criteria is adjustment to home at Mom's or home at Dad's determined to be best? How are best interests interpreted as they relate to school selection, attitude about education, and support of extra-curricular activities? What relative weight should each topic get? Is participation in one volunteer organization preferable community involvement to participation in another organization? This isn't just less than optimal clarity, it's no clarity. These questions arise from a single factor, picked from the list to give a concise example. As the other factors also lack standards, they give rise to more unanswered questions. The entire list is faulty.

¶16 Violation of Due Process: Statute this vague violates the Due Process provision of the 14th Amendment by encouraging arbitrary enforcement through failure to describe what a suspect must do in order to satisfy the law. This is unconstitutional. *Kolender v. Lawson*, 461 U.S. 352, 353, 361 (1983). In the present case, a parent has been accused of

being less supportive of the best interests of their child than the other parent. The operative statute does not specify what objective criteria the suspect parent must meet in order for their parenting to be deemed satisfactory. The result here, in a prior action, was arbitrary imposition of lopsided minority time on one parent, by the court, at the instance of the other parent. The statute is too vacuous to prevent this abuse from recurring in the present action.

¶17 While some may argue that the need for clarity is not as strong in this domestic relations case as in the cited criminal case, personal experience of the party deprived of equal opportunity to parent their children for 14 years, and counting, forecloses the assertion. Less than equal parenting time is a grievous loss. The most exacting anti-ambiguity standard should govern.² *Sessions v. Dimaya*, 584 U.S. 148, 156-157 (2018)³. It may also be argued that the subject statute does give a clear standard applicable to all factors – the best interests of the child. Further, the flexibility afforded by this standard is, arguably, indispensable. These assertions ignore the legitimate need for discernable

² Appendix H, Paragraph 2, includes one claim inconsistent with the present paragraph. Please accept this apology.

³ This is from the opinion of Justice Kagan, referring to a different court order of similar gravity.

standards, relating to the subjects of the factors, to give parents adequate notice of what the law requires them to do for equal parenting time. Although beyond the scope of the present petition, allocation of decision-making responsibility under 14-10-124(1.5)(b) suffers from the same unmet need, because it uses the same factors, plus similar factors.

¶18 Recent revision of the statute inserted a new provision at 14-10-124(1.5)(a.5) directing courts to, "...strive not to consider as a relevant factor information or recommendations that are biased, including bias regarding religion, gender, [or other itemized characteristics]." While this addition seems noble, the new direction does not answer any of the questions from Paragraph 15 of the present petition, so the value of its protection against slanted decisions is minimal. Magistrates can finesse expression of findings to justify disparate allocation when the actual reason is personal preference operating in a realm of undefined criteria.

¶19 Summary Denial: No amount of copious detail in the text of a motion can overcome the lack of objective criteria for evaluating information related to the statutory factors. Therefore, recapitulation of the factors is not a necessary component of a viable motion to modify parenting time. A specific reason or set of reasons may well warrant modification of parenting time independent of the statutory list of factors. The list does not exclude other concerns and does not settle parenting time controversies.

Summary denial of the subject motion to modify parenting time, for failure to recite the deficient factors, should be overturned.

REASONING OF THE COURT OF APPEALS

¶20 Aspects of Due Process: Attempting to defend the problematic factors, the Colorado Court of Appeals distinguishes procedural from substantive due process, describes these terms as addressing different aspects, and treats the controversy here as a substantive claim. Appendix D, Paragraphs 11 and 12. The opening brief to the court of appeals makes no such distinction, because, some jurists disagree with the segregation.

¶21 The subject statute gives no evaluation standard to notify parents what will be considered adequate to merit award of any particular proportion of parenting time and to prevent the court from ruling in an arbitrary manner. This creates simultaneous violation of both purported aspects of due process, so the claim is valid whether the distinction is valid or not. The United States Supreme Court need not diagnose every violation that may be occasioned by the subject statute. The procedural due process violation, perpetrated through lack of adequate notice, gives enough reason to declare Colorado Revised Statutes 14-10-124(1.5)(a)(I)-(XI) unconstitutional and overrule the orders below, without even citing substantive due process or equal protection.

¶22 Fixed Rules: According to the definition used by the court of appeals, a determination made without consideration of fixed rules is arbitrary. Black's Law Dictionary, p 128, definition 1 (12 ed. 2024).

Therefore, the court of appeals attempts to prop up an assertion that the statute is not arbitrary by noting that it provides a discrete list of considerations that inform orders. Appendix D, Paragraph 12. The statutory best interests factors are not fixed rules – as presented, they are aspects of a child's life to ponder. While contemplation of the factors may be commendable, it is not the same as application of fixed rules.

¶23 For contrast, United States Code, Title 26, Section 1(a), does give fixed rules. Married individuals filing joint returns whose taxable income exceeds \$36,900 without exceeding \$89,150 are to pay tax in the amount of \$5,535 plus 28% of the excess over \$36,900⁴. Those whose taxable income exceeds \$89,150 without exceeding \$140,000 are to pay \$20,165 plus 31% of the excess over \$89,150. Additional rules give prescriptions for several other income levels and marital status designations. There is a stark difference between these rules and the best interests factors.

¶24 Should allocation of parenting time be as formulaic as tax brackets? Perhaps not; and yet,

⁴ These numbers don't match 2025 Internal Revenue Service tables; they just serve as examples of fixed rules.

shouldn't parents receive notice of what they can do in order to retain or recover equal opportunity to participate in the upbringing of their children? The best interests factors give no such notice. They are as lawless as a bully's playground, where partisan practitioners exact misplaced retribution and make money by playing a cruel game of keep-away to benefit one parent at the expense of the other parent, the children, and, by extension, the nation.

¶25 Role of Factual Findings: The court of appeals seeks to sooth its conscience by recalling that the district court must make factual findings on the relevant factors to explain the basis of a parenting time order by identifying the evidence which the fact finder deemed determinative, as if this will prevent arbitrary orders. Appendix D, Paragraph 12. In the absence of fixed rules, factual findings cannot prevent arbitrary orders, because the parties are left in the dark regarding criteria, and because different decision-makers may well return very different decisions from the same facts.

¶26 According to a definition neglected by the court of appeals, a judicial decision founded on preference, rather than reason, is arbitrary. Black's Law Dictionary, p 128, definition 2 (12 ed. 2024). Considering statutory factors without criteria to evaluate relevant information does not give rational basis for decisions that are independent of decision-maker preferences. While factual findings are a good start, they do not solve the problem.

¶27 Legal Authority: The court of appeals takes the fallback position that, since the opening brief does not cite any supporting legal authority or develop the argument beyond a conclusory statement, the court may decline decision. Appendix D, Paragraph 13. These allegations are not true. The 14th Amendment is the legal authority asserted by the brief. This requires that statute not be so ambiguous that traditional canons of interpretation fail to answer the questions laws beget. *Sessions v. Dimaya*, 584 U.S. 148, 189 (2018)⁵. The opening brief to the court of appeals goes beyond stating this point by developing the argument with specific questions begotten of the subject factors. Appendix E, pp 61 and 62.⁶ The questions are original, so there is no reference to an outside source. Why would the court of appeals refuse to even acknowledge presentation of these questions? Could it be recognition that the questions lay bare the fatal flaw in the statute?

¶28 According to 14-10-124(1.5)(a), restriction of parenting time is governed by specific endangerment criteria, distinct from the best interests factors. These criteria have not been met during the history of this case, so formal restriction has not been imposed. The allocation limiting time with one parent to 14% is an arbitrary de facto restriction,

⁵ This is from the opinion of Justice Gorsuch.

⁶ Herein Paragraph 15.

perpetrated behind a smokescreen of unconstitutional factors. The courts below have been acting beyond the limits of their legal authority.

AFTERMATH

¶29 Will decision-makers be left unable to protect children, where real danger is present, after the factors are struck down? Will the States enact evaluation standards so exhaustive that minute details of family life will be codified in dystopian style? Such dismal futures need not prevail. In the few authentic cases of endangerment, courts will remain authorized to restrict parenting time under Colorado Revised Statutes 14-10-124(1.5)(a). While even this statute can be abused, at least the correct requirements would govern. Where no legitimate endangerment exists, Colorado Revised Statutes 14-10-124(1) will continue to encourage sharing the rights and responsibilities of parenting, in the best interests of all. Parties equal before the law share alike. Children should be granted the same amount of time with each parent.

SUMMARY

¶30 The subject statute is commonly referred to as the “best interests of the child standard”. This term is a misnomer. The statutory factors are standardless. They lack evaluation criteria, so they are not dispositive. They fail to give adequate notice and they invite arbitrary decisions. Colorado Revised Statutes 14-10-124(1.5)(a)(I) – (XI) should be struck down for violating the Due Process provision of the 14th Amendment. A motion to modify parenting time must not be summarily denied for declining to recite the list of faulty factors. Please cure this ongoing wrong by overruling the orders below and declaring the deficient factors unconstitutional to clear the way for both parents to receive equal opportunity to raise their children with love.

Pled from the heart,

<u>Samuel Collin Robinson</u>	<u>2026.04.13</u>
Samuel Collin Robinson	Date

