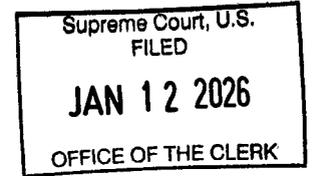


25-6822 ORIGINAL
NO. _____



In the Supreme Court of the United States

OCTOBER TERM, 2025

CIARA LYNN REHBEIN,

Petitioner,

v.

JESSICA MICHELLE PADDOCK,

Respondent.

On Petition for a Writ of Certiorari to the Supreme

Court of the State of

Montana

DA 25-0031

Judgment entered September 9, 2025; Rehearing denied October 14, 2025

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QUESTION PRESENTED

- 1. Whether the Due Process Clause permits a state court to award parental rights to a nonparent under an unpleaded statute after trial, where the statute supplies the authority to interfere with a fit parent's fundamental rights and the nonparent lacked standing when the action was filed.**

PARTIES TO THE PROCEEDING

Petitioner is Ciara Lynn Rehbein, the biological and legal mother of the two minor children at issue.

Respondent is Jessica Michelle Paddock, Petitioner's former spouse and the non-parent claimant below.

There are no corporate parties.

RELATED PROCEEDINGS

There are no prior or pending proceedings in this Court related to this case.

The following proceedings in other courts are directly related to this case:

1. Rehbein v. Paddock, No. DA 25-0031, Supreme Court of the State of Montana.
Judgment entered September 9, 2025; Petition for Rehearing denied October 14, 2025.
2. In re the Marriage of Rehbein and Paddock, No. DR-22-50, Second Judicial District Court, Butte–Silver Bow County, Montana.
Findings of Fact, Conclusions of Law, and Decree of Dissolution entered December 12, 2024.

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OPINIONS BELOW

The opinion of the Supreme Court of the State of Montana is reported at 2025 MT 201 and is reproduced at Appendix A, pages 1–16. This Opinion is Published.

The Montana Supreme Court’s order denying Petitioner’s timely Petition for Rehearing, entered on October 14, 2025, is reproduced at Appendix B, pages 17-19

The Findings of Fact, Conclusions of Law, and Decree of Dissolution entered by the Montana Second Judicial District Court, Butte–Silver Bow County (Cause No. DR-22-50), on December 12, 2024, are reproduced at Appendix C, pages 20-50.

JURISDICTION

The Supreme Court of Montana entered judgment on September 9, 2025, and denied rehearing on October 14, 2025. This petition is filed within ninety days of the denial of rehearing, in accordance with 28 U.S.C. § 2101(c) and Supreme Court Rule 13.1.

This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1 provides, in relevant part:

“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.”

Mont. Code Ann. § 40-4-104.

The court shall enter a decree of dissolution of marriage if it finds that the marriage is irretrievably broken. To the extent it has jurisdiction to do so, the court shall make provision for parenting.

Montana Code Annotated § 40-6-105 provides, in relevant part:

(1) A person is presumed to be the natural father of a child if any of the following occur:

...(a) the person and the child’s natural mother are or have been married to each other and the child is born during the marriage or within 300 days after the marriage is terminated;

(2) A presumption of paternity under this section may be rebutted only by an adjudication under this chapter or by the filing of a valid denial of paternity in accordance with this chapter.

Montana Code Annotated § 42-2-421 provides, in relevant part:

(1) Execution of a notarized denial of paternity of a child is a voluntary act that constitutes a waiver of all parental rights to the child, except for the duty to pay support if paternity is established or presumed.

(2) A notarized denial of paternity is irrevocable when executed.

Montana Code Annotated § 40-4-212 provides, in relevant part:

The court shall determine parenting and visitation arrangements in accordance with the best interests of the child.

Montana Code Annotated § 40-4-211(6) defines a “child-parent relationship” as:

A relationship that includes provision for a child’s physical care, emotional support, guidance, and day-to-day needs, and that exists or existed, in whole or in part, preceding the filing of the action.

Mont. Code Annotated § 40-4-228

Parenting and visitation matters between natural parent and third party provides, in relevant part:

(1) In cases when a nonparent seeks a parental interest in a child under § 40-4-211, the provisions of this chapter apply.

(2) A court may award a parental interest to a person other than a natural parent when it is shown by clear and convincing evidence that:

(a) the natural parent has engaged in conduct that is contrary to the parent-child relationship; and

(b) the nonparent has established with the child a child-parent relationship, as defined in § 40-4-211, and it is in the best interests of the child to continue that relationship.

(4) For purposes of this section, voluntarily permitting a child to remain continuously in the care of others for a significant period of time so that the others stand in loco parentis to the child is conduct that is contrary to the parent-child relationship.

(5) It is not necessary for the court to find a natural parent unfit before awarding a parental interest to a third party under this section.

Montana Rule of Civil Procedure 19(a) provides, in relevant part:

(a) Persons Required to Be Joined if Feasible.

A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if:

(1) in that person's absence, the court cannot accord complete relief among existing parties; or

(2) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(A) as a practical matter impair or impede the person's ability to protect the interest; or

(B) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

Mont. R. Civ. P. 15(b)(2)

When an issue not raised by the pleadings is tried by the parties' express or *implied consent*, it must be treated in all respects as if raised in the pleadings.

STATEMENT OF THE CASE

Petitioner Ciara Lynn Rehbein is the biological and legal mother of two minor children, A.M.R. (born 2018) and M.J.R. (born 2021). Respondent Jessica Michelle Paddock is Petitioner's former spouse. Before the dissolution, Respondent executed a notarized Affidavit of Non-Paternity disclaiming parental status. (*APP. 3-footnotes*). A.M.R.'s birth certificate was amended accordingly, and Respondent was never listed on M.J.R.'s birth certificate.

No biological father was joined as a party at any stage of the proceedings. Both biological fathers testified as witnesses at trial. One of them attempted to assert his parental rights. (*APP. 35 #96, APP. 62-63*). The other attempted to confer his Parental rights to the Respondent (*APP. 25 #34*). Neither was included in the allocation of parental rights or responsibilities in the Conclusions of Law, (*APP. 44 #10-12*), or in the Final Parenting Plan, which divided custody only between Petitioner and Respondent. (*APP. 72-78*).

No amendment to the governing legal theory was made until after trial. (*APP. 46 #19*). No notice was provided to either natural parent before trial that pre-existing parental rights would be part of the adjudication (*APP. 43 #4*), or that the method of obtaining jurisdiction would require evidence of "conduct contrary". (*APP. 45 #15*). Parentage was contested from the first filing in the case being "Without Minor Children". (*APP. 33 #83*).

1. Initial Filings and Early Proceedings

The parties were married July 2018, and separated on February 22, 2022. On April 14, 2022, Petitioner filed a Petition for Dissolution of Marriage Without Minor Children seeking to dissolve the irrevocably broken marital commitment. Respondent filed a

Counter-Petition asserting that the children were “of the marriage” and seeking a parenting plan but did not identify any statute conferring parental standing (*APP. 33 #84*). Respondent submitted an affidavit asserting that the children were conceived by artificial insemination, and that she was the other Parent to the children.

At a July 14, 2022 order-to-show-cause hearing, Respondent acknowledged that parentage remained contested and explained that she was seeking more formalized parenting rights than what she currently had. When Petitioner attempted to present evidence regarding biological parentage and her parental decision-making, the court curtailed her prepared testimony and told her to step down, stating that the case resembled “every other divorce” in which both parties had parented the children and now must come to an agreement. (*APP. 56-57*). The court made no finding of parentage and entered an interim visitation order while reserving the issue of a final parenting plan. (*APP. 52*). Petitioner moved to suspend visitation, asserting the time being spent with Respondent while parentage had not been legally determined was having a destabilizing effect on her children which was supported with a Licensed Clinical Social Worker’s professional analysis and statement to the court; the court denied relief and another interim parenting order which provided a greater amount of time was put into effect shortly after in November of 2022.

2. Parentage Filing

On October 31, 2022, Respondent moves to file a Petition for Judgment Regarding Parentage invoking only Mont. Code Ann. § 40-6-105, Montana’s presumption-of-parentage statute. Respondent did not invoke Mont. Code Ann. § 40-4-228, which governs third-party parenting claims, and did not serve either biological

father. Respondent claims that the “first child” was the product of artificial insemination which she alleged she assisted in, and due to her proximity to both Petitioner’s children since birth, she is their parent. Respondent made no allegation of unfitness, its lesser but similar form- “conduct contrary”, nor did she assert any claims as to alternate relief theories that arose only at trial. (*APP. 79-84*)

On November 3, 2022, M.J.R.’s biological father filed a sworn statement asserting his parental rights and stating that he had never relinquished them and did not give consent for any rights to be displaced with Respondent. (*APP. 54*).

3. Trial Proceedings

The district court conducted a two-part final hearing.

a. Part 1: December 8, 2023

Respondent presented her case-in-chief solely under § 40-6-105 per her Petition for Parentage and the court’s confirmation that trial proceeded under that statute. (*APP. 58–60*). During direct examination, Respondent’s counsel briefly referenced third-party parenting; Petitioner objected, stating counsel was testifying for the client and the court sustained the objection, the transcript reflects the manner of questioning was deemed inappropriate by the court. No amendment of the pleadings was sought or granted. The case proceeded under § 40-6-105.

Respondent testified regarding the marriage, dissolution, and the contested presumption of parentage. The court did not concede or adopt an unpled theory. Respondent rested.

b. Part 2: July 11–12, 2024

Petitioner presented biological evidence and testimony rebutting the presumption of parentage claim. (*APP. 62-63*). Both parties rested. On the last day of Trial, the Respondent called three rebuttal witnesses whose testimony specifically targeted parental conduct and allegations regarding the children’s relationships with the Respondent. Petitioner objected that the testimony exceeded the scope of the pleadings and later moved to strike it. The court overruled the objections. (*APP. 64–68*).

At the close of trial, the court directed the parties to submit proposed findings of fact and conclusions of law and instructed that any “persisted objections” should be submitted in post-trial filings. (*APP. 69–70*).

4. Post-Trial Proceedings

Petitioner timely filed and served proposed findings through the Clerk as seen in the Register of Actions. Respondent did not file or serve proposed findings but submitted them directly to the trial judge, invoking § 40-4-228 in its distinction for the first time and requesting amendment of the pleadings under Rule 15(b)(2) to conform to the evidence. Likewise, no biological father was notified.

Petitioner objected upon discovery and further preserved her objections in post-trial briefing, per the Court’s instruction.

On December 12, 2024, the district court adopted Respondent’s proposed findings with minimal revision, The court rejected Respondent’s § 40-6-105 theory and then amended the pleadings under Rule 15(b)(2) awarding relief under § 40-4-228. (*APP. 43 #3*). The court then amended the pleadings post-trial under Rule 15(b)(2), and awarded nearly

equal parental rights (*APP. 50*) under § 40-4-228 as “alternative relief”. (*APP. 46 #22*). The court described in its findings, the rebuttal testimony as the basis for “conduct contrary” (*APP. 37-40*). Neither biological father was joined to the resulting parenting plan. (*APP. 72*). The court found that the children are doing well with court ordered visits and that the relationship should continue.

5. Appeal

Petitioner appealed to the Montana Supreme Court, raising federal due-process and jurisdictional objections. Respondent cross-appealed, arguing entitlement under § 40-6-105. On September 9, 2025, the court affirmed, holding that Petitioner had impliedly consented to trial of a § 40-4-228 claim. (*APP. 4, ¶7*). The court stated that certain evidence from both parties was relevant only to alternative relief. (*APP. 7, ¶15–16*) and held that Petitioner did not object in a timely manner, or sufficiently. The court did not address the district court’s instruction to do so or Petitioner’s objections to the scope of evidence in real time, and addressed directly that she did not object at the time of mention of alternative relief. Rehearing was denied on October 14, 2025. (*APP. 17–19*).

Petitioner preserved the federal issues presented here at every stage.

REASONS FOR GRANTING THE WRIT

I. The Decision Below Eliminates Due Process and Statutory Limits by Allowing Courts to Dispense Parental Rights Through Post-Trial Amendment and Court-Manufactured Standing

This case presents a recurring and fundamental constitutional problem: whether a state court may confer parental rights by retroactively applying an unpled statute after trial and then justify that result by relying on court-ordered involvement during the litigation itself, without advance notice to the affected parents of what legal claim is being adjudicated or under what governing standard.

The violations here were not incidental. They were necessary to manufacture statutory standing that concededly did not exist when the action was filed. At filing, Respondent had disclaimed parentage, had not adopted the children, and invoked no statute authorizing third-party parental rights. (App. 83). Nevertheless, the district court ordered interim contact without statutory authority (App. 51-52), compelled participation under Montana's dissolution statute, and later relied on that court-ordered involvement to supply the statutory predicates required by Mont. Code Ann. § 40-4-228. The Montana Supreme Court affirmed, holding that Petitioner had "impliedly consented."

That ruling departs from settled constitutional limits in two independent but reinforcing ways: by eliminating notice of the governing legal theory, and by allowing courts to create standing and jurisdiction through their own interim orders.

A. Allegations and Compelled Participation Cannot Substitute for Notice of the Governing Legal Theory

Due process requires advance notice of the claim to be adjudicated and the legal standard that will govern the outcome, particularly where a nonparent seeks state interference with a fit parent’s fundamental rights. Allegations—no matter how persuasive—do not substitute for pleading statutory elements, do not confer jurisdiction, and do not justify the redistribution of parental rights absent notice and adversarial testing under an expressly invoked statute that the court confirms it will apply.

This Court has long held that “[a]n elementary and fundamental requirement of due process” is notice reasonably calculated to apprise interested parties of the pendency and nature of the action and to afford them an opportunity to present objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314–15 (1950).

That requirement is not satisfied where the governing legal theory authorizing interference with parental rights is disclosed only after trial has concluded. Here, the only pleaded parentage theory—invoking Montana’s presumption-of-parentage statute—was fully litigated and rejected. Only then did the district court amend the pleadings under Rule 15(b)(2) and apply Mont. Code Ann. § 40-4-228 in its place. Montana’s third-party parental-interest statute had never been pled, noticed, or identified as governing law at any stage of the proceedings where parentage was contested. (App. 43, 46). This particular statute comes with a different framework and requires adjudication of the existing parent’s fitness. It requires the burden to be reconstructed and aimed at aspects which were not defined in any transparent fashion in this case.

This Court has squarely rejected the notion that participation in litigation can substitute for notice of a new legal theory imposed after the fact. In *Nelson v. Adams USA, Inc.*, the Court held that due process is violated when a judgment rests on a theory introduced after trial, even where the affected party participated fully in the proceedings. 529 U.S. 460, 466–67 (2000). Likewise, in *In re Ruffalo*, the Court found that due process is denied when liability rests on a charge “supplied after the proceedings have commenced,” emphasizing that “the charge must be known before the proceedings commence.” 390 U.S. 544, 550–51 (1968).

Although those cases arose outside the family-law context, the constitutional defect they identify is procedural and categorical. Evidence and compliance compelled under one statutory framework where a parents rights are not at stake, cannot be retroactively recast to support adjudication under a different, unpled one where that parents rights are at stake.

B. The Judgment Rests on Court-Manufactured Standing and Jurisdiction

The judgment below also rests on standing created by judicial action itself. At the time this action was filed, Respondent lacked statutory standing to seek parental rights. She had disclaimed parentage, had not adopted the children, and had not invoked any statute authorizing third-party parental status. Nevertheless, the district court ordered interim contact without statutory authority and later relied on that court-ordered contact to satisfy the “child-parent relationship” requirement of § 40-4-228.

In effect, the court’s own provisional orders supplied the factual predicates necessary to justify its ultimate exercise of power after trial. This Court has never sanctioned a regime

in which judicial action itself creates statutory conditions for jurisdiction. Jurisdictional and standing requirements reflect legislative judgments about *when* and *how* the State may intrude upon family integrity, and they must exist before adjudication, not emerge through the adjudicative process even where jurisdiction is defined by statute rather than Article III. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94–95 (1998). *Steel Co.* arose under Article III, its core holding—that jurisdictional prerequisites must exist before adjudication apply with equal force where a legislature has defined statutory limits on family-court authority.

That principle is foundational. As this Court explained long ago, there is foundational principle that judicial power is limited to jurisdiction conferred by law and may not be manufactured through retroactive implication, waiver or post-hoc reasoning.” *Pennoyer v. Neff*, 95 U.S. 714, 733–34 (1878).

The constitutional consequences of the rule endorsed below are profound. If allowed to stand, courts may impose interim contact over a fit parent’s objection, allow time to pass, and then convert that compelled relationship into permanent parental rights by shifting from failed statutes to unpled statutes in search of jurisdiction. Statutory prerequisites are bypassed, and judicial discretion supplants legislative command. Rule 15(b)(2) becomes a jurisdiction-creating mechanism, rather than a procedural housekeeping rule.

This problem is not confined to Montana. courts nationwide increasingly confront nonparent parental claims in dissolution proceedings where traditional parentage statutes do not apply or are rebutted by biological evidence. Absent clear constitutional limits,

interim orders and equitable reasoning risk becoming tools for judicially created parentage untethered from law.

Review is warranted to reaffirm a basic constitutional boundary: parental rights may not be created—or displaced—through post-trial amendment, implied consent, or conduct alleged during litigation. Due process and separation of powers require that statutory authority and standing exist before trial and independent of judicial action.

II. The Opinion Conflicts with This Court’s Fit-Parent Jurisprudence by Granting Co-Equal Standing to a Nonparent Absent Unfitness or Statutory Authority

Apart from the procedural and jurisdictional defects described above, the decision below conflicts with this Court’s settled rule that the State may not intrude upon the parent-child relationship of a fit parent absent clear statutory authority and constitutionally sufficient justification.

The Montana Supreme Court expressly acknowledged that Petitioner is a fit parent by affirming a parenting plan that imposed no findings of unfitness, no limitations on parental capacity, and no remedial conditions. Nevertheless, it affirmed conclusions of law conferring co-equal parental rights on a nonparent—without findings of unfitness, without termination or adjudication of the biological fathers’ rights, and without compliance with any legislatively prescribed pathway for reallocating parental authority. Because Montana’s “Conduct Contrary” standard is so vague, the result is a court-ordered redistribution of constitutionally protected parental rights based not on law, but on judicial discretion.

This Court has made clear that, where a parent is fit, the Constitution sharply limits the State’s authority to override parental decision-making. *Troxel v. Granville*, 530 U.S. 57, 65, 68–69 (2000). Although *Troxel* addressed third-party visitation rather than formal parentage, its constitutional principle is stronger here. If courts may not override a fit parent’s decisions concerning visitation based solely on best-interests reasoning, they certainly may not impose third-party contact during litigation and then elevate that nonparent to co-equal parental status absent unfitness or statutory authorization. The

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decision below disregards that boundary by converting discretionary assessments into permanent parental rights.

This Court's precedents further establish that parental authority cannot be displaced or reassigned without individualized findings and lawful procedure. In *Stanley v. Illinois*, the Court held that the State may not deprive a biological parent of parental rights without an individualized determination of unfitness, even where the State believes an alternative arrangement may be preferable. 405 U.S. 645, 656–58 (1972). Here, one biological father expressly asserted his parental rights and never relinquished them, yet those rights were functionally displaced when co-equal authority was conferred on a nonparent. That result cannot be reconciled with *Stanley*'s command.

Nor may the State dilute parental rights by recharacterizing the nature of the intrusion. This Court has emphasized that parental rights are fundamental and that procedural and substantive protections increase—not diminish—when the State interferes with family integrity. *Santosky v. Kramer*, 455 U.S. 745, 753–54 (1982). Granting co-equal parental rights to a nonparent substantially impairs a parent's constitutional authority, even if the State avoids the label of “termination.” In the decision below, the court concluded that granting these rights would not impair those rights of the fit biological parents. The Constitution does not permit courts to divide children's lives in such a manner, through discretionary balancing rather than law.

The danger of the rule endorsed below is systemic. If best-interests reasoning alone suffices, the constitutional distinction between parent and nonparent collapses. Courts may convert caregiving history or relational proximity into parental rights, even where

the legislature has not authorized such a result and the parent is concededly fit. That is precisely what occurred here.

Review is warranted to reaffirm a foundational and constitutional principle: a fit parent's rights may not be displaced or diluted by granting co-equal parental status to a nonparent absent clear statutory authority and constitutionally sufficient justification.

III. This Case Is an Ideal Vehicle for Resolving an Important and Recurring Constitutional Question, and Review Is Warranted Under Rule 10(c)

This Court's review is warranted under Rule 10(c) because the decision below departs from the accepted and usual course of judicial proceedings and authorizes a method of adjudication that threatens fundamental constitutional protections for families nationwide.

This case presents an unusually clean vehicle. The statute authorizing third-party parental rights was never pled or applied before trial; the amendment occurred only after the evidentiary record closed; the biological parent was expressly found fit; and the resulting judgment rests on legal reasoning rather than disputed facts. The decision is published and precedential, ensuring that the procedural method it approves will govern future cases.

The Montana Supreme Court sanctioned a dangerous procedural sequence: a court may impose interim contact without statutory authority, compel participation during litigation, and then rely on that court-ordered involvement to retroactively supply statutory standing and jurisdiction under an unpled statute. Consent is inferred not from knowing agreement, but from compliance with court orders issued before the governing legal theory was disclosed. This approach replaces advance notice and statutory prerequisites with judicial discretion exercised after the fact.

That method of adjudication is not confined to Montana. Family courts nationwide routinely issue interim parenting orders early in dissolution proceedings, often before parentage or standing is resolved. If the rule endorsed below is allowed to stand, any court may transform temporary, compelled contact into permanent parental rights by

shifting statutory frameworks post-trial and characterizing compliance as implied consent. The risk is systemic: a procedural shortcut becomes a template.

The consequences for families are profound. Fit parents may be forced to defend their constitutional rights without notice of the legal standard governing the case, while courts acquire the ability to manufacture jurisdiction through their own orders. Statutory limits enacted by legislatures to protect family integrity are bypassed, and parental rights become contingent on litigation dynamics rather than law. Once endorsed, this approach will predictably spread, as it offers courts a means to resolve hard cases by equitable adjustment rather than statutory compliance.

This Court's intervention is warranted now, before this method becomes entrenched. The Constitution requires that statutory authority and standing exist before adjudication, not be created through adjudication itself. Clarifying that boundary will protect families nationwide and reaffirm that fundamental parental rights may not be altered through post-trial amendment, implied consent, or judicially manufactured standing.

CONCLUSION

That result conflicts with this Court's due-process precedents, exceeds structural limits on judicial power, and recreates the constitutional defect rejected in *Troxel*. Because the error is portable, recurring, and outcome-determinative, this Court's review is warranted. Fit parents and their children deserve meaningful boundaries. The Court should grant this Writ.

Respectfully signed, this 9th day of January, 2026



Ciara L. Rehbein, Petitioner