No. 26-180

In the
Supreme Court of the United States

EDWARD ALLYN HUDACKO,
Petitioner,
v.
REGENTS OF THE UNIVERSITY OF CALIFORNIA, *et al.*,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF *AMICUS CURIAE* SUTHERLAND INSTITUTE IN SUPPORT OF PETITIONER

William C. Duncan
Sutherland Institute
420 E South Temple, Suite 510
Salt Lake City, UT 84111
(801) 355-1272
bill@sifreedom.org
Counsel for Amicus Curiae

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INTEREST OF *AMICUS*[1]

Amicus Sutherland Institute is a Utah nonprofit, nonpartisan public policy organization with a mission to promote the constitutional values of faith, family, and freedom. Sutherland promotes the constitutional right to the free exercise of religion and related rights, including appropriate state deference to parental responsibility.

The decision of the lower courts gives short shrift to the well-established right of fit parents to be informed of, and to have a significant influence on, decisions affecting the lives of their children. This right is particularly important for parents who have a religious obligation to protect their children and direct their upbringing. This case has important implications for the pressing question of whether government officials can disregard this right.

SUMMARY OF THE ARGUMENT

The right of parents to make decisions regarding their children's upbringing is an established right. This explicitly includes a parent's authority to make decisions regarding medical care that a child cannot

[1] Pursuant to Supreme Court Rule 37.2, counsel for amicus notified all known parties of intention to file a brief of amicus curiae in this case on August 28, 2026. In accordance with Supreme Court Rule 37, this brief was not authored by counsel for any party in this action. No party or person not related to amicus made any kind of monetary contribution to the preparation or submission of this brief. All funding for this brief came from the amicus.

appropriately make without parental influence. This respect for parental direction is also reflected in California law.

Defendants' actions in this case disregarded these constitutional protections and the purposes they advance.

This Court's decisions regarding parental authority protect parents' ability to access critical information about their children so that parents can discharge their obligation to ensure their children's best interests, including in formative matters such as gender identity procedures. A State's undoubted responsibility to protect children from mistreatment does not give it the authority to override otherwise appropriate parental decisions.

Parents are "primary protectors" of their children. The protection they provide is especially important when a child faces life-changing procedures, and particularly when one of the options has been severely limited or banned by some States and nations. This Court has deferred to the concerns expressed about these procedures, and surely parents should be able to help their children navigate choices about them. When parental input is removed, the influence of peers, media, and others whose financial and ideological interests may be at odds with the child's is magnified, to the child's detriment.

ARGUMENT

I. Defendants' actions interfered with the established right of a parent to influence his child's life-changing medical decisions.

This Court has repeatedly recognized, in a variety of contexts, that parents have a "fundamental constitutional right to make decisions concerning the rearing of" their children. *Troxel v. Granville*, 530 U.S. 57, 70 (2000) (plurality opinion).[2] Notwithstanding this history, the state defendants here profess to be unaware that performing surgery on a child without informing or obtaining consent from the child's father (despite a specific court order requiring such consent) was a violation of clearly established law. The principle that parents, rather than government officials, "have primary authority with respect" to their children's upbringing was recently characterized by this Court as "long-established precedent." *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026).

In performing surgery on his child without notification despite a court order specifically granting

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[2] *See*, *e.g.*, *Meyer v. Nebraska*, 262 U. S. 390, 400 (1923); *Prince v. Massachusetts*, 321 U. S. 158, 166 (1944); *Ginsberg v. New York*, 390 U.S. 629, 639 (1968); *Wisconsin v. Yoder*, 406 U. S. 205, 213 (1972); *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978); *Parham v. J. R.*, 442 U.S. 584, 602 (1979); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *M.L.B. v. S.L.J.*, 519 U.S. 102, 116 (1996); *Espinoza v. Montana Dept. of Revenue*, 591 U. S. 464, 486 (2020); *Mahmoud v. Taylor*, 606 U.S. 522, 546 (2025).

him the right to consent, defendants denied plaintiff the ability to influence the medical care of his child. This Court has explained that parents' "high duty" (*Pierce v. Society of Sisters*, 268 U. S. 510, 535 (1925)) toward their children includes the opportunity "to recognize symptoms of illness and to seek and follow medical advice. The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Parham v. J.R.*, 442 U.S. 584, 602 (1979). Thus, the Court noted that constitutional protection extends to "parents' authority to decide what is best for the child" in the medical context, even if the parent declines to support a surgery the child desires. *Id*. at 604.

> Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state. . . . The same characterizations can be made for a tonsillectomy, appendectomy, or other medical procedure. Most children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment. Parents can and must make those judgments. *Id*. at 603.

A recognition of this reality is evident in policies such as California's statutory determination that a child who is 15 or older can consent to medical care only when living separate from parents, is providing his or her own financial affairs, and the parents are not responsible for the medical care. Cal. Fam. Code §6922. Also, the provision that minor consent to pregnancy-related treatment "does not authorize a minor to be sterilized without the consent of the minor's parent or guardian." Cal. Fam. Code §6925. The Ninth Circuit has held that a medical examination conducted without the parents' knowledge or consent violates the parents' constitutional rights. *Mann v. County of San Diego*, 907 F. 3d 1154 (9th Cir. 2018).

Defendants' actions in this case are at odds with these principles. They excluded a father from knowledge of and participation in a minor child's decision about a dramatic and life-altering procedure that could result in sterility.

All of this Court's decisions in which parental responsibility is implicated include a critical presupposition—that parents will have some knowledge of their children's lives. It would be manifestly unjust for the law to assume that parents owe their children a duty to provide for their well-being while simultaneously preventing the discharge of that obligation by denying parents critical information about their child. Yet, that is precisely what happened here, despite the father's attempts to secure information from the defendants. As three

justices have noted, a state policy to "purposefully interfere with parents' access to critical information about their children's gender-identity choices" is an issue of "great and growing national importance." *Lee v. Poudre Sch. Dist. R-1*, 2025 WL 2906469, at *1 (Alito, J., concurring in the denial of certiorari); *Parents Protecting Our Child., UA v. Eau Claire Area Sch. Dist., Wisconsin*, 145 S. Ct. 14 (2024) (Alito, J., dissenting in the denial of certiorari).

In *Mahmoud v. Taylor*, 606 U.S. 522 (2025), this Court pointed to a failure to provide notice of some curricular materials used in schools as an element of the denial of parents' free exercise. *Id.* at 550. It was also a factor in determining that the parents had standing to challenge the school district policy that the Board of Education had "stated that it will not notify parents." *Id.* at 561. That is exactly what the defendants did here.

Of course, this Court has recognized that the state has a legitimate role in protecting children, including from parents where necessary. Thus, there are circumstances in which a parent may be denied custody, the ability to influence medical decisions, or even the right to be aware of important information about the child. This, however, has not been understood to grant the state the power to override otherwise appropriate parental choices, because the state has a different concept of what is best for a child. As a plurality of this Court put it, the Constitution "does not permit a State to infringe on the fundamental right of parents to make childrearing

decisions simply because a state judge believes a 'better' decision could be made." *Troxel v. Granville*, 530 U.S. 57, 72–73 (2000) (plurality). In an earlier decision, this Court noted the constitutional problems that would occur were a government "to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest." *Quilloin v. Walcott*, 434 US 246, 255 (1978) (quoting *Smith v. Organization of Foster Families*, 431 U. S. 816, 862-863 (1977) (Stewart, J., concurring)). The *Parham* decision noted above recognized that parents would "retain a substantial, if not the dominant, role" in decisions affecting a child's medical care "absent a finding of neglect or abuse." *Parham*, 442 U.S. at 604.

The actions of defendants at issue in this case worked a broad and deep deprivation of parental responsibility and of a father's relationship with his child.

II. Defendants' interference with paternal influence undercuts a core benefit of such influence, the protection of children's best interests.

Here, defendants have "cut out [one] of the primary protectors of" a child's best interest, the child's father. *Mirabelli v. Bonta*, 607 U.S. 492, 496-497 (2026). The context of this case illustrates why this influence is so important to maintain.

As this Court has noted, a number of national governments "have raised significant concerns regarding the potential harms associated with using puberty blockers and hormones to treat transgender minors." *United States v. Skrmetti*, 145 S. Ct. 1816, 1825 (2025). It also noted an "ongoing debate among medical experts" on these questions. *Id*. at 1836. The uncertainty about the efficacy of these procedures, the Court held, justified a State's decision to ban them.

The uncertainty about the efficacy of these dramatic procedures underscores why parental influence is so essential. As previously noted, this Court described reasons the Constitution protects parental influence, such as the reality that parents can make up "what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions" and that even most adolescents "simply are not able to make sound judgments" about medical care. *Parham*, at 602-603. Simply, if States can reasonably ban medical procedures related to gender transition, surely parents must not be excluded from influencing children's decisions about them.

If parents are cut out of influencing their children's choices about gender-identity-related surgical procedures, this does not mean those children will be making decisions in a vacuum. Peers, online sources, and others will still be communicating with them about what they should do. A recent report from the U.S. Department of Health and Human Services suggests that some of this outside influence

may be motivated by financial and ideological considerations that are not readily apparent to minors who experience it. *Wolves in White Coats: How Doctors and Hospitals Pushed and Profited from the Fraud of "Gender Medicine"* U.S. Department of Health and Human Services (2026). (This report lists the University of California San Francisco Medical Center as one of the organizations allegedly billing "for puberty-blocking drugs given to a patient aged 13 to 17, where the medical reason listed on the bill was puberty starting unusually early," a diagnosis that "normally applies to much younger children, so it is an unexpected reason to see at these ages.") *Id*. at 61. Removing essential "protectors" from a child's life is the precise risk the constitutional protection of parental influence is meant to prevent.

CONCLUSION

Amicus respectfully urges this Court to grant the petition.

Respectfully submitted,

William C. Duncan
Sutherland Institute
420 E South Temple, Suite 510
Salt Lake City, UT 84111
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bill@sifreedom.org
Counsel for Amicus Curiae

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