

No. **26-5467** **ORIGINAL**

Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

Elhady Soure — PETITIONER
(Your Name)

Akron children Hospital vs. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Federal court Eastern Division
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Elhady Soure
(Your Name)

P.O. Box 7024
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Akron OH 44306
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QUESTIONS PRESENTED

I. Whether a private hospital that explicitly invokes a state statute to deny a father access to his child's medical records acts under color of state law for purposes of 42 U.S.C. § 1983, where the denial was made solely pursuant to Ohio Revised Code § 3109.042 — directly conflicting with *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982).

II. Whether the district court's holding creates an unconstitutional catch-22 denying any judicial forum for fundamental parental rights, violating *Boddie v. Connecticut*, 401 U.S. 371 (1971).

III. Whether Ohio's categorical exclusion of unmarried fathers from their children's medical records — without notice, hearing, or individualized determination — violates the Due Process and Equal Protection Clauses under *Stanley v. Illinois*, *Troxel v. Granville*, and *Caban v. Mohammed*.

IV. Whether HIPAA, 45 C.F.R. § 164.502(g), which grants both parents the right to access a minor child's medical records absent a court order, preempts Ohio Revised Code § 3109.042 as applied by private hospitals to deny unmarried fathers access to their children's medical records.

V. Whether government-created poverty — resulting from a government-admitted wrongful license suspension that eliminated Petitioner's income — can bar access to federal appellate courts when the fees owed arise from cases challenging that same government error, in violation of *Boddie v. Connecticut* and *Griffin v. Illinois*, 351 U.S. 12 (1956).

LIST OF PARTIES TO THE PROCEEDING

Pursuant to Supreme Court Rule 14.1(b), the following are all parties to the proceeding in the court whose judgment is sought to be reviewed:

Petitioner: Elhadj Alpha Mahmoud Souare, who was Plaintiff-Appellant below.

Respondents:

1. Akron Children's Hospital, a nonprofit corporation with no parent corporation and no publicly held corporation owning 10% or more of its stock. 2. Lori Williams, an employee of Akron Children's Hospital.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Elhadj Alpha Mahmoud Souare is an individual proceeding pro se. There is no parent corporation or publicly held company that owns ten percent or more of his stock.

Respondent Akron Children's Hospital is a nonprofit corporation. It has no parent corporation and no publicly held corporation owns 10% or more of its stock.

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INTRODUCTION

This case presents important and recurring questions concerning the boundary between private conduct and state action, the constitutional protection afforded to parental rights, and the interaction between federal medical privacy law and state domestic-relations statutes.

On July 8, 2025, a hospital employee denied a father access to his daughter's medical records the day before her child protection hearing by explicitly citing Ohio Revised Code § 3109.042. The denial was audio recorded and submitted to both courts below. The district court acknowledged the denial was based on state law, then held it constituted 'independent judgment' — and therefore no state action existed. A denial expressly premised on a state statute cannot simultaneously be independent judgment.

Federal law independently required the hospital to provide access. HIPAA, 45 C.F.R. § 164.502(g)(1), grants both parents the right to access a minor child's medical records absent a court order. No court had ordered otherwise. No parental rights had been terminated. The hospital violated federal law.

No federal court has ever addressed the merits of Petitioner's claims. The issues presented are of substantial and recurring importance affecting every unmarried father and every hospital applying state marital-status presumptions in the medical records context nationwide.

OPINIONS BELOW

The Memorandum Opinion and Order of the United States District Court for the Northern District of Ohio (Chief Judge Sara Lioi), filed September 22, 2025 in Case No. 5:25-cv-01434, is reproduced in Appendix A. It is unreported.

The order of the Sixth Circuit denying Petitioner's motion to proceed in forma pauperis on appeal, dated December 23, 2025, is reproduced in Appendix B. It is unreported.

The order of the Sixth Circuit denying Petitioner's motion for reconsideration, filed January 29, 2026, is reproduced in Appendix C.

The order of the Sixth Circuit dismissing the appeal for want of prosecution, issued March 20, 2026, is reproduced in Appendix E. It is unreported.

JURISDICTION

The Sixth Circuit dismissed Petitioner's appeal on March 20, 2026. This Petition for a Writ of Certiorari is timely filed within the 90-day period prescribed by Supreme Court Rule 13.1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The filing deadline is June 18, 2026.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment provides in pertinent 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.' U.S. Const. amend. XIV, § 1.

HIPAA Privacy Rule, 45 C.F.R. § 164.502(g)(1): A covered entity must treat a parent as a personal representative of a minor child and must provide the parent with access to the child's protected health information, unless a court has ordered otherwise.

Ohio Revised Code § 3109.042: An unmarried woman who gives birth to a child is the sole residential parent and legal custodian of the child until a court issues an order designating another person as the residential parent and legal custodian. The statute does not provide for notice, a hearing, or an individualized determination before being applied in particular contexts.

STATEMENT OF THE CASE

A. Statutory Background

This case arises at the intersection of state family law and federal constitutional and regulatory protections. Ohio Revised Code § 3109.042 provides that, when a child is born to an unmarried woman, the mother is designated the sole residential parent and legal custodian unless and until a court orders otherwise. The statute does not provide for notice, a hearing, or an individualized determination before being applied in particular contexts.

At the federal level, HIPAA requires covered entities to treat a parent as the personal representative of a minor child and to provide access to the child's protected health information, absent a court order or other recognized exception. See 45 C.F.R. § 164.502(g).

B. The Denial of Access to Medical Records

Petitioner is the biological father of a minor child. On July 8, 2025, Petitioner sought access to his child's emergency room records from Akron Children's Hospital. The request was made on the eve of a scheduled child protection hearing. A hospital employee denied the request based on the explanation that, because Petitioner was not married to the child's mother, 'in the state of Ohio the mother is the legal guardian,' and a court order would be required for access. App. A at 2. This denial was captured on audio recording submitted to both courts below. No court had issued an order restricting Petitioner's parental rights.

C. Proceedings in the District Court

Petitioner filed this action under 42 U.S.C. § 1983. The district court dismissed the complaint sua sponte, holding the defendants were not state actors and characterizing the denial as an exercise of 'independent judgment,' notwithstanding that the denial was expressly based on Ohio Revised Code § 3109.042. The court did not reach the merits of Petitioner's constitutional or federal statutory claims.

D. Proceedings in the Court of Appeals

The Sixth Circuit denied leave to proceed in forma pauperis and denied reconsideration. App. B, C. Because Petitioner was unable to pay the required \$605

filing fee — a consequence of the government's separately admitted wrongful suspension of his driver's license, which had eliminated his income — the court of appeals dismissed the appeal for want of prosecution on March 20, 2026. App. E. No federal court has addressed the merits.

E. Ongoing Application of the Challenged Practice

On March 23, 2026, Petitioner again sought access to his child's medical records and was denied on the same basis. The issues presented are therefore ongoing and capable of repetition.

REASONS FOR GRANTING THE WRIT

I. THE STATE ACTION HOLDING DIRECTLY CONFLICTS WITH LUGAR v. EDMONDSON OIL CO.

The district court held Williams exercised 'independent judgment' rather than acting under color of state law. This directly conflicts with *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), which held that a private party who invokes state law to deprive another of constitutional rights acts under color of state law. The district court's own opinion confirms the denial was caused by Ohio Revised Code § 3109.042 — Williams recited the law of Ohio, not a hospital policy. Under *West v. Atkins*, 487 U.S. 42 (1988), a private actor exercising authority delegated by the state is a state actor. Additionally, Akron Children's Hospital receives substantial Medicaid and Medicare funding. Under *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961), this financial relationship establishes state action. The district court never addressed *Burton*. The circuits have not uniformly resolved when a private hospital's invocation of a state statute constitutes state action. This Court's guidance is necessary.

II. THE OPINION CREATES AN UNCONSTITUTIONAL CATCH-22 — NO FORUM EXISTS

The district court dismissed federal claims for lack of state action, then directed Petitioner to state court. But state courts apply Ohio Revised Code § 3109.042 — the statute causing the harm. Federal court is closed. State court cannot remedy the harm. No forum exists anywhere to vindicate Petitioner's constitutional rights. *Boddie v. Connecticut*, 401 U.S. 371 (1971), prohibits structuring the legal system so that a person seeking to vindicate fundamental rights has no accessible forum. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982), holds the state may not use its own procedural mechanisms to extinguish a claim it has itself generated.

III. OHIO'S SCHEME VIOLATES FUNDAMENTAL PARENTAL LIBERTY

This Court has long recognized parental rights as among the oldest fundamental liberty interests. *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Troxel v. Granville*, 530 U.S. 57, 65 (2000). *Stanley v. Illinois*, 405 U.S. 645 (1972), struck down automatic deprivation of an unwed father's parental rights without a hearing. Ohio Revised Code § 3109.042 renders every unmarried father a legal stranger to his own child — without notice, without a hearing, without any individualized consideration — directly contrary to

Stanley. Applied here, the statute denied Petitioner the medical evidence he needed for his daughter's child protection hearing the next day. *Mathews v. Eldridge*, 424 U.S. 319 (1976), requires process commensurate with the magnitude of the interest at stake. No process was provided. Equal protection requires substantial justification for marital-status distinctions in parental rights. *Caban v. Mohammed*, 441 U.S. 380 (1979). No such justification exists here.

IV. HIPAA PREEMPTS OHIO'S CATEGORICAL EXCLUSION OF UNMARRIED FATHERS

HIPAA, 45 C.F.R. § 164.502(g)(1), requires covered healthcare entities to treat a parent as the personal representative of a minor child and provide access to the child's health information absent a court order. No court had ordered otherwise here. The hospital was required by federal law to provide the records. By citing Ohio Revised Code § 3109.042 instead, it violated federal law. Under the Supremacy Clause, federal law prevails. This Court has never resolved whether HIPAA preempts state marital-status presumptions in the medical records context — a question affecting every hospital and every unmarried parent in the nation.

V. GOVERNMENT-CREATED POVERTY CANNOT BAR ACCESS TO COURTS

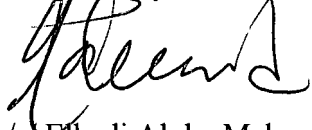
The government wrongfully suspended Petitioner's driver's license, eliminating his income. The district court certified appeal could not be taken in good faith, triggering the \$605 fee. When Petitioner could not pay — because the government had made him unable to pay — the Sixth Circuit dismissed. *Boddie v. Connecticut* prohibits closing courts to parties who cannot pay when fundamental rights are at stake. *Griffin v. Illinois*, 351 U.S. 12 (1956), held that a state cannot deny appellate review solely because of a party's inability to pay. The government cannot create the poverty and then use it to foreclose all review.

CONCLUSION

This case presents important and recurring questions concerning the boundary between private conduct and state action, the constitutional protection afforded to parental rights, and the interaction between federal medical privacy law and state domestic-relations statutes. The decision below permits a private entity to deny a parent access to a child's medical information based expressly on state law, while avoiding constitutional scrutiny on the ground that the conduct is not attributable to the State. It also leaves unresolved whether federal law governing access to medical records preempts contrary state rules applied in this manner. These issues warrant this Court's review.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



/s/ Elhadj Alpha Mahmoud Souare

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April 2026