

26-5518

No. _____

ORIGINAL

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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

PHILLIP SCOTT GRIGALANZ,

Petitioner,

v.

ELIZABETH MARIE COPAS,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF THE STATE OF NEVADA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment permits a State, in the name of parental autonomy, to make the absence of biological or adoptive status conclusive at the courthouse door and deny any evidentiary process to establish de facto or psychological parent status where the caregiver alleges that a legal parent affirmatively created and fostered a durable parent-child relationship and the children developed corresponding dependent family bonds.

2. Whether that categorical rule is constitutionally permissible where the State's own child-custody jurisdiction code recognizes a nonparent as a legally consequential "person acting as a parent" who "claims a right to legal custody pursuant to the law of this state," gives that class jurisdictional and interstate-enforcement consequences, but provides no original proceeding in which the claimed status can be adjudicated - thereby also foreclosing judicial consideration of the children's interests in the asserted family relationship.

PARTIES TO THE PROCEEDING

Petitioner Phillip Scott Grigalanz was the appellant in the Court of Appeals of the State of Nevada and the petitioner for discretionary review in the Supreme Court of Nevada. Respondent Elizabeth Marie Copas was the respondent in those proceedings. No party is a corporation, and no party has a stock ticker symbol.

DIRECTLY RELATED PROCEEDINGS

Eighth Judicial District Court of Nevada, Family Division, Clark County: Phillip Scott Grigalanz v. Elizabeth Marie Copas, No. D-25-713639-P; written dismissal entered October 14, 2025.

Court of Appeals of the State of Nevada: Grigalanz v. Copas, No. 91619-COA; Order of Affirmance filed July 9, 2026.

Supreme Court of Nevada: Grigalanz v. Copas, No. 91619; Order Denying Petition for Review filed August 7, 2026.

Supreme Court of Nevada: Grigalanz v. Eighth Judicial District Court, No. 91066; Order Denying Petition for Writ of Mandamus or Prohibition filed August 6, 2025 (same district-court custody matter).

Court of Appeals of the State of Nevada: Grigalanz v. Eighth Judicial District Court, No. 91396-COA; Order Denying Petition filed October 9, 2025 (same district-court custody matter).

CORPORATE DISCLOSURE STATEMENT

Not applicable. The parties are natural persons.

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OPINIONS AND ORDERS BELOW

The Court of Appeals of the State of Nevada filed an unpublished Order of Affirmance on July 9, 2026. *Grigalanz v. Copas*, No. 91619-COA (Nev. Ct. App. July 9, 2026), reproduced at App. 1a-6a. The Supreme Court of Nevada denied discretionary review without opinion on August 7, 2026. *Grigalanz v. Copas*, No. 91619 (Nev. Aug. 7, 2026), reproduced at App. 7a.

JURISDICTION

The Court of Appeals of the State of Nevada entered judgment on July 9, 2026. The Supreme Court of Nevada denied discretionary review on August 7, 2026. This petition is timely under Rule 13.1 because it is filed within 90 days of the denial of discretionary review. This Court has jurisdiction under 28 U.S.C. § 1257(a).

Because this petition challenges the constitutionality, as applied, of Nevada's categorical interpretation of its custody-standing statutes, 28 U.S.C. § 2403(b) may apply. In accordance with Rule 29.4(c), Petitioner is serving the Attorney General of Nevada with this petition.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment provides in relevant part: "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." U.S. Const. amend. XIV, § 1. The Amendment speaks in terms of "persons," and children are not outside its protection. See *In re Gault*, 387 U.S. 1, 13 (1967).

Nevada's Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) defines a "person acting as a parent" to include a nonparent who has qualifying physical custody and who either has been awarded legal custody or "claims a right to legal custody pursuant to the law of this state." Nev. Rev. Stat. § 125A.135. The same chapter gives that class express significance in defining the child's home State, initial jurisdiction, continuing jurisdiction, modification

jurisdiction, and registration of sister-state custody determinations. See *id.* §§ 125A.085, 125A.305, 125A.315, 125A.325, 125A.465. It also provides that intervention and joinder remain governed by Nevada law. *Id.* § 125A.345(3). The pertinent provisions are reproduced at App. 16a et seq.

STATEMENT OF THE CASE

A. Petitioner alleged a parent-child relationship deliberately created and fostered by the legal parent.

This case concerns a threshold question: whether a court must permit a claimant to prove the family status he alleges before the court treats nonbiology as dispositive. Petitioner has never claimed to be the children's biological or adoptive father. He alleged instead that Respondent invited him into the household, entrusted him with sustained parental responsibilities, and fostered a relationship in which the children came to rely upon him as a parent.

The Nevada appellate filings alleged that Petitioner lived with the children from approximately September 27, 2024, through May 24, 2025; provided meals, transportation, school routines, supervision, medical and dental coordination, emotional support, discipline, and daily care; and performed those responsibilities without compensation. They further alleged that the children addressed him as "Dad," "Father," or "Papi." See App. 8a-15a.

Those allegations track the factual questions used by leading *de facto*-parent doctrines: whether a legal parent consented to and fostered the relationship; whether the claimant and children lived together; whether the claimant assumed substantial parental obligations; whether the arrangement endured long enough to create a bonded and dependent parental relationship; and whether abrupt destruction of the bond threatens cognizable harm to the child. See *V.C. v. M.J.B.*, 748 A.2d 539, 551-52 (N.J. 2000); *In re Custody of H.S.H.-K.*, 533 N.W.2d 419, 435-36 (Wis. 1995). Petitioner asked for an evidentiary determination of that threshold status, not an automatic award of custody.

B. Nevada treated nonbiology as dispositive and therefore never adjudicated the alleged relationship or the children's interests in it.

The district court dismissed for lack of standing. The Court of Appeals affirmed de novo. It held that Nev. Rev. Stat. § 125A.135 is definitional and does not itself confer standing, that Nevada precedent had not used in loco parentis to permit an unrelated person to seek custody, and that decisions from other jurisdictions did not establish standing under Nevada law. App. 3a-5a.

The dispositive step was categorical. The Court of Appeals reasoned that standing presented a "purely legal question" because Petitioner conceded that he was not biologically related to the children. It therefore held that no evidentiary hearing was required and that the district court need not make Nevada's statutory best-interest findings. App. 5a-6a. Service and judicial-bias issues were left unresolved. App. 6a.

Thus Nevada did not find that Petitioner failed a de facto-parent test. It held that, because he lacked biology, there was no such test he was entitled to take. No court determined whether Respondent actually consented to and fostered the alleged parental relationship, whether Petitioner actually performed the asserted parental functions, whether the children became dependent upon that relationship, or what effect an abrupt termination of the asserted family bond had upon them.

C. Nevada's UCCJEA simultaneously recognizes a legally consequential class of "persons acting as parents."

Nevada's jurisdictional code makes the resulting gap unusually concrete. A child's "home state" may be the State in which the child lived for six months with "a parent or a person acting as a parent." Nev. Rev. Stat. § 125A.085. Initial jurisdiction may depend on the continued Nevada residence or significant Nevada connection of a "person acting as a parent," together with evidence concerning the child's "care, protection, training and personal relationships." Id. § 125A.305(1)(a)-

(b). Continuing and modification jurisdiction likewise expressly account for a "person acting as a parent." Id. §§ 125A.315, 125A.325.

Most strikingly, the definition includes a nonparent who, after the required period of physical custody, either has been awarded legal custody or "claims a right to legal custody pursuant to the law of this state." Id. § 125A.135. Yet the decision below holds that this statutory status does not itself open an original Nevada proceeding, and no other Nevada doctrine was held to do so. At the same time, Nevada must recognize and enforce qualifying sister-state determinations, and its registration statute expressly contemplates a "person acting as a parent" who has already been awarded custody or visitation. Id. §§ 125A.445, 125A.465.

Petitioner does not contend that the UCCJEA itself creates substantive parentage. The Act allocates jurisdiction, and Nevada expressly provides that intervention and joinder remain governed by Nevada law. Id. § 125A.345(3). The point is structural: Nevada law gives the asserted status jurisdictional consequences and recognizes it after another sovereign has adjudicated it, while the decision below supplies no original Nevada pathway in which the predicate claimed status can be tested.

D. The federal questions were preserved.

Petitioner's Fast Track Statement challenged the refusal to hear evidence as a denial of due process and a meaningful opportunity to be heard on standing; challenged categorical status-based decisionmaking under *Stanley v. Illinois*, 405 U.S. 645 (1972), *Santosky v. Kramer*, 455 U.S. 745 (1982); and argued that Nevada's use of a biology-only threshold ignored the children's welfare and asserted parental bonds. App. 12a-15a.

The Petition for Review then squarely asked whether Nevada could recognize a "person acting as a parent" in interstate jurisdiction and enforcement while denying any original Nevada pathway, and whether the absence of biology could be treated as a purely legal answer to a status defined

elsewhere by consent, caregiving, duration, and dependency. App. 8a-11a. The Court of Appeals stated that arguments not specifically addressed had been considered and rejected, App. 6a, and the Nevada Supreme Court denied review, App. 7a.

REASONS FOR GRANTING THE WRIT

This petition asks for a narrow constitutional rule at the threshold of adjudication. It does not ask the Court to declare Petitioner a parent, award him custody, diminish the presumption favoring a fit legal parent, or constitutionalize every emotionally important relationship with a child. It asks whether a State may make biology conclusive before allowing any inquiry into an alleged parent-created family relationship - and thereby make the children's side of that alleged relationship legally invisible.

The question is important and recurring. States have divided sharply between screened functional-parent doctrines, restrictive biology-or-adoption rules, and detailed legislative models. *Troxel v. Granville*, 530 U.S. 57 (2000), protects fit parents against undifferentiated third-party intervention, but it deliberately did not define the constitutional treatment of every nonparent relationship. Nevada's decision presents the unresolved boundary in unusually clean form because standing alone ended the case.

I. THE DECISION BELOW MAKES BIOLOGY A CONCLUSIVE GATE AND FORECLOSES ANY PROCESS FOR ESTABLISHING THE FAMILY RELATIONSHIP ALLEGED.

A. This Court's precedents do not reduce constitutionally significant family relationships to biology alone.

The Constitution gives extraordinary protection to parental decisionmaking. *Troxel*, 530 U.S. at 65-69. But this Court's family cases also reject the proposition that a biological fact, standing alone,

invariably answers the legal status of a developed parent-child relationship. *Lehr v. Robertson* explained that an unwed father's biological connection does not by itself command full constitutional protection; what matters is whether he has developed a relationship by accepting parental responsibilities. 463 U.S. 248, 261-62 (1983). *Stanley* likewise held that the State could not use a categorical presumption to avoid the individualized hearing necessary to determine parental fitness. 405 U.S. at 654-58.

Smith v. Organization of Foster Families for Equality & Reform is especially instructive, while also marking the limits of the argument. The Court did not decide that every foster relationship is a constitutionally protected family. 431 U.S. 816, 842-47 (1977). But it recognized that the importance of family life can arise from the emotional attachments created by the intimacy of daily association, not blood alone. *Id.* at 844. That insight matters where the legal parent herself allegedly created the relationship and the State refuses to determine whether it became parental in fact.

The claim here is therefore narrower than a freestanding assertion that affection creates constitutional parenthood. Petitioner alleges intentional parental delegation and fostering, sustained performance of parental obligations, co-residence, and a bonded and dependent relationship. Those are facts. Nevada treated them as legally irrelevant because one different fact - nonbiology - was undisputed.

B. Children are constitutional persons, and a court cannot assume their interests disappear merely because they ordinarily cannot litigate for themselves.

The Fourteenth Amendment protects "any person" within a State's jurisdiction. U.S. Const. amend. XIV, § 1. Children are not constitutional nonpersons. *In re Gault*, 387 U.S. 1, 13 (1967). *Parham v. J.R.* recognized both a child's substantial liberty interest and the ordinarily dominant role of parents, while emphasizing that parental authority is not absolute and that the State sometimes must provide independent review of decisions affecting the child. 442 U.S. 584, 600-06 (1979).

Santosky likewise described the child and parent as sharing a vital interest in preventing erroneous destruction of their family relationship before the State establishes grounds for doing so. 455 U.S. at 760.

Smith addressed the practical representational problem directly. Children usually lack the capacity to decide for themselves how their legal interests should be protected; ordinarily parents or guardians speak for them. 431 U.S. at 841 n.44. In that federal litigation, the Court permitted foster parents with sufficient attributes of guardianship to present the children's interests as well as their own. *Ibid.* That prudential standing ruling does not dictate Nevada's domestic-relations standing law. The same representational logic appears in this Court's third-party-standing cases, which consider the closeness of the relationship and whether the rights-holder faces a genuine hindrance to asserting his or her own interests. *Powers v. Ohio*, 499 U.S. 400, 410-11 (1991). Minors ordinarily cannot prosecute a custody claim on their own, and the relationship Petitioner seeks to prove is alleged to be parental rather than casual. It does, however, refute the premise that a child's relevant interests necessarily vanish from judicial consideration whenever the adult who invokes them lacks biological status.

This case exposes the problem acutely. If the legal parent is the person alleged to have created a second parental relationship and later seeks to terminate it, the children cannot ordinarily file their own custody pleading to ask whether that relationship is legally cognizable. A categorical rule barring the alleged functional parent from even establishing threshold status can therefore ensure that no one is permitted to present the children's side of the asserted bond. The State has not protected the family by doing so; it has prevented the court from determining what family relationship exists.

C. A threshold evidentiary determination protects rather than displaces the line between standing and custody.

The relevant constitutional distinction is between being awarded parental authority and being allowed to prove threshold status. A hearing on the latter does not adjudicate the former. It asks whether the claimant belongs to the narrow class entitled to proceed at all. If the claimant fails to prove legal-parent consent and fostering, substantial parental responsibilities, duration, and a bonded dependent relationship, the case ends before merits adjudication.

That limited process accords with the Court's insistence that meaningful family-status adjudication not rest on irrebuttable shortcuts. See *Stanley*, 405 U.S. at 656-58; cf. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (due process requires a meaningful opportunity to be heard in an adoption proceeding). It also respects the State's monopoly over legal custody status: only a court can confer or deny the legal consequences Petitioner seeks to establish. The requested rule is therefore about access to an adjudicative process, not an entitlement to a custody result.

II. TROXEL IS A LIMITING PRINCIPLE FOR A SCREENED CLAIM, NOT A RULE OF CATEGORICAL BIOLOGICAL EXCLUSION.

A. Troxel addressed open-ended third-party visitation, not a parent-created parental relationship screened at the courthouse door.

Troxel invalidated, as applied, a Washington statute that permitted "any person" to seek visitation "at any time" based on a judge's view of the child's best interests. 530 U.S. at 60, 67. The plurality emphasized the fit parent's fundamental liberty interest, presumed that a fit parent acts in the child's best interests, and required special weight for the parent's decision. *Id.* at 65, 68-70. Those protections remain central here.

But Troxel expressly declined to define the precise scope of the parental due-process right in every visitation setting and stressed that constitutionality depends upon how a standard is applied.

Id. at 73. A claimant who alleges that a legal parent intentionally installed him in a parental role, lived with the children, delegated substantial parenting responsibilities, and fostered a durable dependent bond is not situated like the unrestricted "any person" authorized to sue under the Washington statute.

Parental autonomy therefore supplies the gatekeeper rather than the automatic answer. A legal parent's affirmative consent to and fostering of the relationship is what distinguishes a de facto-parent claim from stranger intervention. The doctrine can require clear and convincing proof of that consent, plus co-residence, uncompensated parental responsibility, duration, and dependency, before any merits question is reached.

B. State high courts demonstrate that standing and strong fit-parent protection can coexist.

New Jersey's V.C. test requires legal-parent consent and fostering, co-residence, assumption of parental obligations without expectation of compensation, and a relationship of sufficient duration to create a bonded and dependent parental tie. 748 A.2d at 551-52. Wisconsin's H.S.H.-K. test is materially similar. 533 N.W.2d at 435-36. Maryland adopted the same basic gatekeeping approach in *Conover v. Conover*, 146 A.3d 433, 447-48 (Md. 2016), and New York abandoned its former biology-or-adoption bright line in *Brooke S.B. v. Elizabeth A.C.C.*, 28 N.Y.3d 1, 14, 27-28 (2016), in favor of a consent-based rule.

Texas is particularly useful because its cases separate the threshold from the merits. In *re* Interest of H.S. construed a statute granting standing to nonparents who had exercised actual care, control, and possession in a parent-like role. 550 S.W.3d 151, 160 (Tex. 2018). Two years later, In *re* C.J.C. held that the fit-parent presumption still governs what relief a nonparent may obtain over a fit parent's objection. 603 S.W.3d 804, 817-19 (Tex. 2020). The same legal system can therefore permit a qualified nonparent through the courthouse door while preserving *Troxel*'s presumption at the merits stage.

Delaware provides another example. Its Supreme Court upheld a statutory de facto-parent scheme because the claimant, if she satisfied the statutory test, was not an undifferentiated third party; the legal parent's consent to formation of the relationship was central to the status claimed. *Smith v. Guest*, 16 A.3d 920, 930-32 (Del. 2011). These decisions do not bind Nevada, but they demonstrate that recognizing threshold process does not logically require dilution of parental constitutional protection.

C. The rule sought is deliberately narrower than a new substantive constitutional right to functional parenthood.

Petitioner does not ask this Court to announce that de facto parenthood itself is a new fundamental right. That broader claim would raise the history-and-tradition methodology associated with *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997), and later substantive-due-process decisions. Nor does Petitioner contend that an outsider may override an intact family merely by invoking a biological or emotional connection. Cf. *Michael H. v. Gerald D.*, 491 U.S. 110, 122-30 (1989) (plurality opinion).

The requested holding is procedural and relational: where the claimant alleges that a legal parent affirmatively created and fostered a parental relationship, and where state law itself gives the asserted category legal consequences, the State may not make nonbiology conclusive before permitting a narrowly screened factual determination of whether the alleged status exists. If status is established, *Troxel*'s fit-parent presumption and any heightened Nevada merits standard remain fully available. If status is not established, the parent prevails at the threshold.

III. NEVADA'S UCCJEA ARCHITECTURE CREATES A CIRCULAR, STATUS-BASED COURTHOUSE BARRIER THAT SHARPENS THE FEDERAL QUESTION.

A. Nevada gives "persons acting as parents" jurisdictional significance at every stage except the original adjudication of the claimed status.

Nevada's UCCJEA provisions cannot fairly be dismissed as an isolated definition. The Act uses "person acting as a parent" to define home-state jurisdiction, initial jurisdiction, continuing jurisdiction, modification jurisdiction, and interstate registration. Nev. Rev. Stat. §§ 125A.085, 125A.305, 125A.315, 125A.325, 125A.465. The initial-jurisdiction section expressly directs attention to evidence concerning the child's "care, protection, training and personal relationships." Id. § 125A.305(1)(b)(2).

Yet § 125A.135 defines the class to include someone who "claims a right to legal custody pursuant to the law of this state." A claim ordinarily precedes adjudication. Under the decision below, however, the definition cannot confer standing, Nevada has no recognized in loco parentis route for an unrelated claimant, and lack of biology itself makes the threshold question purely legal. The asserted Nevada-law claim is therefore recognized as part of the jurisdictional definition while the claimant is denied any original process in which to test it.

Nevada has thus created an unusual circularity: the claimant cannot establish the legal status because he lacks standing to litigate it, and he cannot obtain standing because no Nevada authority has yet established the legal status. Meanwhile, a functionally identical claimant who first obtains a qualifying judgment elsewhere may return to Nevada as a person whose judgment Nevada's UCCJEA machinery must recognize and enforce. See id. §§ 125A.445, 125A.465, 125A.475.

B. The UCCJEA does not itself supply substantive standing, but other courts have understood the same uniform language very differently.

The UCCJEA is principally jurisdictional, not substantive custody law. Nevada also expressly provides that the right to intervene and the obligation to join parties remain governed by forum law. Nev. Rev. Stat. § 125A.345(3). Petitioner therefore does not ask this Court to transform a uniform jurisdiction act into a federal substantive parentage code.

The structural problem nevertheless is real, and Kentucky's construction of materially identical UCCJEA language demonstrates it. In *Mullins v. Picklesimer*, the Kentucky Supreme Court reasoned that the new UCCJEA language allowing a "person acting as a parent" to participate in initial jurisdiction could supply standing in a shared co-parenting situation when the nonparent satisfied the statutory definition, including a claimed right to custody under Kentucky law. 317 S.W.3d 569, 574-76 (Ky. 2010). The court distinguished a person intentionally functioning as another parent from a babysitter, grandparent, or romantic partner who merely helps with childcare. *Id.* at 576.

Nevada chose the opposite reading: the same kind of uniform-act definition has jurisdictional consequences but cannot open an original proceeding. App. 3a-5a. That is not a Rule 10(b) conflict on a federal holding; the States remain free to structure substantive family law. It is powerful evidence, however, that the uniform text exposes a recurring national question about what process is constitutionally required when a State's jurisdictional law recognizes the category but its standing law makes original adjudication unavailable.

C. The interstate disparity places responsibility on courts to preserve constitutional process without rewriting substantive state law.

The constitutional issue is not that Nevada must adopt Kentucky's substantive rule. It is that Nevada's courts cannot simultaneously rely on the absence of a Nevada cause of action as the

reason the status is unprovable and treat the absence of an already-proven status as the reason no cause can be heard, if that circularity extinguishes a claimed family relationship without any factual process.

Courts routinely distinguish interpretation from legislation by enforcing constitutional minima while leaving substantive policy to the State. Here that minimum can be narrow: an opportunity to establish threshold status under a demanding, parent-consent-centered test. Nevada would remain free on remand to define the precise elements, burden of proof, remedies, and fit-parent presumption, so long as nonbiology is not treated as a conclusive substitute for the factual inquiry the claimed status necessarily entails.

IV. THE STATES ARE DEEPLY DIVIDED, AND MODERN LAW SHOWS THAT THE QUESTION IS RECURRING AND JUDICIALLY MANAGEABLE.

A. A substantial group of States recognizes carefully screened functional-parent claims.

New Jersey, Wisconsin, Maryland, New York, Washington, Pennsylvania, and other jurisdictions have recognized forms of psychological, de facto, or in loco parentis parenthood when a legal parent created or fostered the relationship and the claimant assumed the obligations of parenthood. See, e.g., *V.C.*, 748 A.2d at 551-52; *H.S.H.-K.*, 533 N.W.2d at 435-36; *Conover*, 146 A.3d at 447-48; *Brooke S.B.*, 28 N.Y.3d at 27-28; *In re Parentage of L.B.*, 122 P.3d 161, 176-77 (Wash. 2005); *T.B. v. L.R.M.*, 786 A.2d 913, 916-20 (Pa. 2001). Their tests differ, but their shared premise is that consent and sustained parental conduct can justify a threshold adjudication without making biology irrelevant to family law generally.

B. Other States have refused judicial recognition absent legislative authorization.

Other high courts have taken the opposite institutional path. *Jones v. Barlow* declined to create a common-law de facto or psychological-parent doctrine, emphasizing parental autonomy and the

legislature's superior ability to define the class. 154 P.3d 808, 818-20 (Utah 2007). Similar restrictive approaches have treated biology, adoption, or express statutory authorization as the gateway. The resulting legal landscape is not a neat split on identical statutory text, but it is a pronounced and persistent disagreement over the constitutional boundary between parental autonomy, children's reliance interests, and access to adjudication.

C. Modern statutes show that courts can screen claims without opening the door to generalized third-party litigation.

The Uniform Parentage Act (2017) responds to the concern with a detailed de facto-parent procedure. Section 609 requires specific allegations and proof of a parent-like relationship rather than an unrestricted best-interest petition. Several States have enacted similarly demanding schemes. See, e.g., Vt. Stat. Ann. tit. 15C, § 501; R.I. Gen. Laws § 15-8.1-501; Mass. Gen. Laws ch. 209C, § 25. The details vary, but the common architecture is screening: consent or fostering, substantial caregiving, duration, bond or dependency, notice to legal parents, and heightened proof.

Those enactments matter under Rule 10(c). They demonstrate that the problem is recurring, that the relevant facts are judicially administrable, and that there is a middle ground between a biology-only bar and Troxel's rejected world of "any person" suing "at any time." The federal question is likely to become more important as families move between States with different definitions of parent-like status and as UCCJEA recognition rules carry adjudicated relationships across borders.

D. A closely related de facto-parent due-process question is contemporaneously before this Court.

The recurrence of this question is not theoretical. In *Mast v. A.A.*, 925 S.E.2d 665 (Va. 2026), the Supreme Court of Virginia held that nonbiological, nonadoptive caregivers who had not been judicially appointed guardians possessed no protected liberty interest in a child's care, custody, and control under a theory of de facto parenthood. *Id.* at 690–92. The losing caregivers have sought

review in this Court. Their extension proceeding, *A.A. v. Mast*, No. 26A77, is now linked on this Court's docket with No. 26-164, and the Chief Justice extended the time to file their petition for certiorari through September 18, 2026. Supreme Court

Mast arises from a dramatically different procedural and factual setting: a completed adoption, a statute of repose, asserted Afghan familial rights, and foreign-affairs issues. This case presents none of those complications. But the constitutional question identified by the Virginia court is adjacent to the question here: whether a relationship parental in fact can possess any federal constitutional significance when biology, adoption, and formal guardianship are absent. The Virginia court answered that question categorically against the caregivers. Nevada reached the same practical destination through standing, holding that nonbiology made Petitioner's claimed status a purely legal question for which no factual inquiry was necessary. App. 5a–6a.

The contrast makes this case particularly useful. Petitioner does not ask the Court to recognize a freestanding substantive constitutional right to custody for all de facto parents, to disturb a final adoption decree, or to elevate a caregiver over a fit legal parent. He asks the antecedent procedural question: **whether a State may refuse even to determine whether a parent-created, dependent family relationship exists when its own law recognizes “persons acting as parents” as legally consequential and the children themselves have interests that cannot otherwise be presented.** The contemporaneous *Mast* proceeding confirms that lower courts are confronting the constitutional status of functional-parent relationships now, under sharply different legal frameworks, and that guidance from this Court is warranted.

V. THIS CASE IS A CLEAN VEHICLE FOR RESOLVING THE PROCESS QUESTION WITHOUT CREATING A NEW SUBSTANTIVE FUNDAMENTAL RIGHT.

A. Standing was dispositive and the factual inquiry was refused precisely because of the challenged rule.

The Court of Appeals affirmed solely because Petitioner failed to establish standing under the legal theories it recognized. It expressly declined to reach service and judicial-bias issues. App. 6a. The absence of factual findings is not a vehicle defect; it is the consequence of the rule challenged here. Nevada held that the facts defining functional parenthood did not need to be heard because nonbiology made standing a purely legal question.

Petitioner therefore does not ask this Court to resolve disputed historical facts. He asks the Court to decide whether Nevada may refuse to hear those facts because of one undisputed fact - lack of biology. If the judgment is vacated, Nevada courts can determine on remand what was actually consented to, what parental functions were performed, whether a bonded dependent relationship existed, and whether any state-law threshold is satisfied.

B. The federal issues were timely and specifically presented.

The Fast Track Statement expressly invoked federal due process and equal protection, attacked categorical decisionmaking, and challenged the refusal to hear evidence on standing and child safety. App. 12a-15a. The Petition for Review expressly presented the Fourteenth Amendment, the UCCJEA/status disparity, the factual nature of psychological-parent standing, and the need for an evidentiary hearing. App. 8a-11a. The Nevada Supreme Court denied review. App. 7a.

C. The Court can decide the case narrowly.

The Court need not hold that every State must recognize de facto parenthood, nor decide that Petitioner possesses a fundamental substantive right equivalent to a biological or adoptive parent. It

need not displace Glucksberg's disciplined approach to new substantive-due-process claims or the history-and-tradition analysis emphasized in later cases. The requested judgment can rest on the much narrower proposition that a State may not use nonbiology as an irrebuttable threshold when the asserted status depends on parent-created facts and the State's own law gives the category legal consequences.

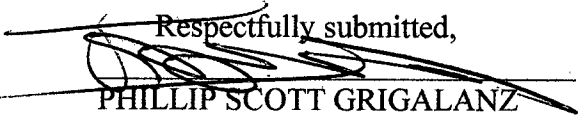
On remand, Nevada could require clear and convincing proof of legal-parent consent and fostering, substantial co-residence, significant uncompensated parental responsibility, and sufficient duration to create a bonded and dependent relationship, together with a legally cognizable child interest. Only then would custody or visitation be adjudicated, with the legal parent's decision receiving Troxel's special constitutional weight and with whatever heightened merits standard Nevada law requires.

That remedy protects all three interests: the legal parent's constitutional autonomy, the children's interest in avoiding unexamined destruction of an alleged parent-created family bond, and the claimant's opportunity to prove threshold status. Protecting that opportunity is not, in this narrow circumstance, an intrusion upon the family. It is the process by which a court determines what family relationships the State is being asked to protect.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court should vacate the judgment below and remand for proceedings that permit a narrowly screened factual determination of threshold status before the absence of biology is treated as dispositive, while preserving the fit legal parent's Troxel protections at every merits stage.

Respectfully submitted,


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