No. 26-_____

IN THE

Supreme Court of the United States

RICHARD BAJKOWSKI,
Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA,
AND DEVORAH BAJKOWSKI,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL,
THIRD APPELLATE DISTRICT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Fourteenth Amendment protects a fit parent's fundamental liberty interest in the care, custody, and control of their children. *Troxel v. Granville*, 530 U.S. 57 (2000). While this Court recognized that right in *Troxel*, it did not explicitly articulate the governing tier of constitutional scrutiny.

In the orders under review, a California family court substantially and indefinitely reduced Petitioner's physical-custody allocation based solely on a generalized "best interest of the child" determination, without applying heightened scrutiny, exploring less-restrictive alternatives, or entering any threshold findings of parental unfitness.

The questions presented are:

1. Whether the Fourteenth Amendment requires family courts to apply heightened constitutional scrutiny and explore less-restrictive alternatives before substantially and indefinitely reducing a fit parent's physical-custody allocation.

2. Whether a generalized "best interests of the child" inquiry is constitutionally sufficient to override a parent's fundamental liberty interest in physical custody absent a threshold finding of unfitness.

PARTIES TO THE PROCEEDINGS.

Petitioner is RICHARD BAJKOWSKI.

Respondent is SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA.

Real Party in Interest is DEVORAH BAJKOWSKI.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of the Rules of this Court, Petitioner, RICHARD BAJKOWSKI, is an individual. No corporate disclosure statement is required.

RELATED PROCEEDINGS

The following proceedings are directly related to this case:

Bajkowski v. Bajkowski, Superior Court of California, County of Shasta, No. 1983777.

Bajkowski v. Superior Court of Shasta County, California Court of Appeal, Third Appellate District, No. C106239.

Bajkowski v. Superior Court of Shasta County, Supreme Court of California, No. S296710.

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OPINIONS BELOW

On July 8, 2026, the California Supreme Court denied Petitioner's petition for review (App. 1a). The order stated in full: "The petition for review is denied." On May 8, 2026, the California Court of Appeal, Third Appellate District, summarily denied Petitioner's petition for a writ of mandate (App. 2a). The order stated in full: "The petition for writ of mandate is denied."

The California Supreme Court's order, (filed July 8, 2026), which denies Petitioner's petition for review, is reproduced at Appendix A.

The California Court of Appeal order, (filed May 8, 2026), which denies Petitioner's petition for a writ of mandate, is reproduced at Appendix B.

The Superior Court of California custody order, (filed Nov. 22, 2024), which substantially and indefinitely reduces Petitioner's physical-custody rights, is reproduced at Appendix C.

STATEMENT OF JURISDICTION

On July 8, 2026, the Supreme Court of California entered its order denying discretionary review (App. 1a). On May 8, 2026, the California Court of Appeal entered its order denying the writ petition (App. 2a).

This Court has jurisdiction, under 28 U.S.C. § 1257(a), to review final judgments or decrees of the

highest court of a State in which a federal constitutional right was specially claimed.

This petition is timely under Rule 13.1 because it is filed within ninety days after the California Supreme Court's order denying review. 28 U.S.C. § 2101.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution, Section 1, in relevant part, provides: "No State shall […] deprive any person of life, liberty, or property, without due process of law[.]"

28 U.S.C. § 1257(a) provides:

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

28 U.S.C. § 2101(c) in relevant part provides:

> Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.

STATEMENT OF THE CASE

Petitioner Richard Bajkowski and Respondent Devorah Bajkowski are parties to a family-law custody matter in the Superior Court of California, County of Shasta. The parties have one child, J.B., aged 14.

Prior to the issuance of the challenged order, Petitioner shared co-equal physical custody; however, on November 22, 2024, the Superior Court entered a custody order that substantially reduced his physical custody allocation (App. 3a).

The custody order establishes a schedule under which the child is with Petitioner from Friday after school or 3:00 p.m. until Sunday at 5:00 p.m. for two consecutive weekends, followed by one weekend with Respondent, with that rotation continuing (App. 3a). Notably, the order bears no expiration date.

The custody order substantially and indefinitely reduced Petitioner's physical custody allocation from fifty percent down to approximately

twenty percent (App. 3a). The order identifies no compelling governmental interest; it is not narrowly tailored to effectuate an overriding state objective, and it was entered with no consideration of less-restrictive alternatives. The order makes no finding that Petitioner is unfit, nor that he ever harmed, abused, or neglected his child (App. 3a).

On April 30, 2026, Petitioner filed a petition for a writ of mandate in the California Court of Appeal, Third Appellate District. The writ petition requested relief from the custody order, and it sought to require family courts to apply strict scrutiny before substantially and indefinitely reducing a fit parent's physical custody rights.

On May 8, 2026, the Court of Appeal, with no explanation, summarily denied the petition (App. 2a). Petitioner sought review in the California Supreme Court, presenting the due-process question: whether courts must apply strict scrutiny before substantially and indefinitely restricting a fit parent's physical custody rights. On July 8, 2026, the California Supreme Court, with no explanation, summarily denied the petition (App. 1a).

REASONS FOR GRANTING THE PETITION

I. This Petition Presents Unresolved Questions Concerning the Constitutional Protections Owed to a Fit Parent Before a State May Substantially and Indefinitely Reduce Physical Custody Rights.

Troxel v. Granville, 530 U.S. 57 (2000), holds that parents have a fundamental right to rear their children under *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). In *Troxel*, Justice Thomas observed that while the plurality, Justice Kennedy, and Justice Souter all recognized this right, "none of them articulates the appropriate standard of review." *Troxel*, 530 U.S. at 80 (Thomas, J., concurring in the judgment). He concluded: "I would apply strict scrutiny to infringements of fundamental rights." *Id.*

Back in 2000, the *Troxel* Court left a doctrinal vacuum by not explicitly labeling the applicable tier of scrutiny as applied to the right to raise children. This Court should now resolve this issue.

This Court has identified the right to direct the upbringing of one's children as among the liberty interests protected by the Due Process Clause. *Glucksberg*, 521 U.S. 702, 720 (1997); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

The Due Process Clause protects more than fair procedure; it provides heightened protection against governmental interference with certain fundamental rights and liberty interests. *Glucksberg*,

521 U.S. at 720. The custody, care, and nurture of children reside first in their parents. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

This Court holds that a parent's interest in their children is a fundamental liberty interest that does not evaporate simply because they have not been exemplary custodians. *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

A parent's interest in his or her children undeniably warrants deference and, absent a powerful countervailing interest, protection. *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 27 (1981), citing *Stanley v. Illinois*, 405 U.S. 645, 651 (1972).

In *Troxel*, this Court held that a visitation order unconstitutionally infringed on a fit parent's fundamental right to make decisions concerning the care, custody, and control of her children. *Troxel v. Granville*, 530 U.S. 57, 73 (2000). The Court reasoned that the Due Process Clause does not permit the State to infringe upon a fit parent's fundamental right simply because a judge considers a different decision "better." *Id.* at 73.

"There is a presumption that fit parents act in their children's best interests." *Id.* at 68. Petitioner has never been declared unfit; therefore, he is properly deemed fit and presumptively acting in his child's best interests.

The challenged order (App. 3a) differs from the third-party visitation order in *Troxel* in one critical

respect: the instant case involves a substantial and indefinite reduction of a fit parent's physical-custody allocation, from equal parenting time down to approximately twenty percent, as opposed to an order that merely regulates a nonparent's contact with a child. The constitutional question is whether a significant deprivation of a fit parent's custodial allocation, for an indeterminate time period, may rest solely on a generalized best-interest determination.

This case presents an issue of national importance that urgently needs to be settled by this Court under Rule 10(c). Lower courts routinely restrict the holding of *Troxel* to cases involving grandparents or non-parents. In custody proceedings, family courts systematically overlook the fundamental liberty interests of fit parents, forcing them to submit to arbitrary "best-interests" reductions without heightened review and with zero constitutional safeguards or procedures.

These issues warrant the Court's review. This Court should clear up a massive legal blind spot affecting American families. With no constitutional safeguards, family courts nationwide routinely issue parenting schedules that substantially and indefinitely reduce a fit parent's physical access to his or her own child.

Petitioner's state-court petitions sought a constitutional rule requiring heightened scrutiny when courts impose substantial and indefinite restrictions on a fit parent's custodial allocation. These issues are of exceptional importance.

II. A Generalized Best-Interest Determination, Without More, Cannot Displace a Fit Parent's Fundamental Right to Physical Custody of His or Her Children.

This Court recognizes that parents presumptively act in their children's best interests and a contrary rule is inconsistent with the American constitutional tradition. *Parham v. J.R.*, 442 U.S. 584, 603 (1979). In the absence of child neglect or abuse, parents retain a dominant role in decisions concerning their children. *Id.* at 601; *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

Troxel reflects this principle. *Troxel* concluded that the trial court gave insufficient weight to a fit parent's own determination of her children's best interests. *Troxel* rejects the premise that a judicial assessment of what might be "better" for a child is sufficient to override a fit parent's childrearing decisions. *Troxel v. Granville,* 530 U.S. 57, 73 (2000). The Fourteenth Amendment requires more.

The constitutional problem identified in *Troxel* is implicated when a court substantially restricts a fit parent's custodial time based only on a generalized best-interest inquiry. The family court reduced Petitioner's custodial allocation with no finding of parental unfitness and with no constitutional justification for the severity of the restrictions. The family court substituted a generalized best-interest determination for the constitutional protections owed to a fit parent.

The family court substantially infringed upon Petitioner's constitutional right to raise his child. The court imposed custodial restrictions set to last for an indeterminate time period. The restrictions were not narrowly tailored to promote or advance any overriding governmental interest, and the family court did not explore any less-restrictive alternatives.

This Court has recognized that the Due Process Clause would be offended if a State forced the breakup of a natural family, over the objections of parent and child, without some showing of unfitness and solely because doing so was thought to be in the child's best interest. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978). Although *Quilloin* ultimately upheld application of a best-interest standard, it did so in the distinct context of an unwed father who had not sought actual or legal custody. *Id.* Petitioner, by contrast, previously shared co-equal physical custody, but the order under review sharply reduced his custodial allocation for an indeterminate time period, with no finding of unfitness, and no consideration of whether less-restrictive alternatives might suffice in lieu of constitutional deprivations (App. 3a–5a).

This case presents an opportunity to clarify whether a generalized best-interest determination, with nothing more, can supply the constitutional grounds required for States to substantially and indefinitely deprive fit parents of their fundamental right to physical custody.

III. The Court Should Clarify the Level of Constitutional Scrutiny Required When Courts Substantially and Indefinitely Reduce a Fit Parent's Physical-Custody Allocation.

The Due Process Clause affords heightened protection against government interference with fundamental rights. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). A parent's fundamental liberty interest in the care, custody, and management of a child does not disappear merely because family relationships are strained or temporary custody has been altered. *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

Petitioner does not contend that the State is powerless to protect a child from danger or to regulate parental decisions when a child's well-being is jeopardized. This Court has recognized that states possess constitutional authority in such circumstances. *Parham v. J.R.*, 442 U.S. 584, 603 (1979). But the question is: what constitutional safeguards apply when the State substantially curtails the physical-custody rights of a parent whom the court has not found unfit?

Heightened scrutiny is required because physical custody lies at the heart of the parent-child relationship. The State should be required to identify a sufficiently weighty interest and demonstrate that the particular deprivation is narrowly tailored to advance that interest, after considering whether less-restrictive alternatives might instead protect the children's interests.

The need for defined constitutional standards is dire. The family court reduced Petitioner's physical custody from an equal parenting schedule down to approximately twenty percent; yet, the custody order identifies no compelling governmental interest, provides no explanation as to how the reduction advances any governmental objective, and fails to consider less-restrictive alternatives (App. 3a–5a). The order sets a recurring weekly parenting schedule while reserving the issues until further order, leaving the schedule with no expiration date. This results in ongoing deprivations of federally protected physical custody rights with no articulated constitutional framework.

This Court need not constitutionalize every routine adjustment to parenting schedules. The question presented is far narrower: whether a court may substantially and indefinitely reduce a fit parent's physical custodial allocation based only on a generalized best-interest determination, with no heightened constitutional scrutiny and no consideration of less-restrictive alternatives.

This Court's review is urgently needed to establish uniform standards of judicial review for family courts. This will protect fit parents from arbitrary and capricious deprivations of fundamental childrearing liberties.

IV. The Summary Dispositions Below Leave Unresolved Questions Concerning Whether Courts Must Narrowly Tailor Custody Orders to Effectuate an Overriding Governmental Interest and Whether Courts Must Consider Less-Restrictive Alternatives.

Petitioner's writ petition to the Court of Appeal asked whether the Fourteenth Amendment requires strict scrutiny when family courts substantially and indefinitely reduce a fit parent's physical custody rights; it also asked whether family courts must narrowly tailor custody orders to effectuate an overriding government interest, and whether they must consider less-restrictive alternatives. The Court of Appeal summarily denied the petition with no explanation (App. 2a).

The Court of Appeal's summary disposition leaves these constitutional questions unanswered and provides no guidance concerning the standard of review required for custody orders that substantially and indefinitely reduce a fit parent's custodial allocation. The California Supreme Court's subsequent denial of review likewise leaves these questions unresolved (App. 1a).

So too, *Troxel* left the issue unresolved. This Court's review is necessary to resolve these pending constitutional questions and thus provide definitive guidance to family courts nationwide.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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