

No. 26-_____

IN THE
Supreme Court of the United States

RICHARD BAJKOWSKI,

Petitioner

v.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA,

Respondent

AND

DEVORAH BAJKOWSKI,

Real Party in Interest

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).

In the orders under review, a California family court substantially and indefinitely reduced Petitioner's physical-custody allocation based solely on a generalized "best interests 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, (filed July 8, 2026). 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, (filed May 8, 2026). 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 May 8, 2026, the California Court of Appeal entered its order denying the writ petition (App. 1a). On July 8, 2026, the Supreme Court of California entered its order denying discretionary review (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. 28 U.S.C. § 1257(a).

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[.]”

Section 1257(a) of Title 28 of the United States Code 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.”

Section 2101(c) of Title 28 of the United States Code, 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 minor 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 reduces his physical custody allocation (App. 3a).

The custody order establishes a schedule under which the child will be 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 reduces Petitioner's shared physical custody from fifty percent down to approximately twenty percent (App. 3a). The order substantially and indefinitely reduces his physical custody allocation. 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 brought harm, abuse, or neglect to 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 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 summarily denied the petition without explanation (App. 2a). Petitioner then sought review in the California Supreme Court, presenting the due-process question of 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 summarily denied the petition without explanation (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.

The Due Process Clause protects more than fair procedure; it provides heightened protection against governmental interference with certain fundamental rights and liberty interests. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

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. at 720; *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

The relationship between parent and child is constitutionally protected, and the custody, care, and nurture of children ordinarily reside first in their parents. *Quilloin v. Walcott*, 434 U.S. 246, 254 (1978); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944). A parent's interest in the companionship, care, custody, and management of his or her children is an important interest that 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 the fit parent's fundamental childrearing 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. Again, Petitioner has never been declared unfit; therefore, he is properly deemed fit and presumptively acting in his child's best interests.

The order here challenged (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 parent’s physical custody, from equal parenting time down to approximately twenty percent, rather than an order merely regulating a nonparent’s contact with a child. The constitutional question becomes 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 exceptional national importance that has never been, but urgently needs to be, settled by this Court under Rule 10(c). Across the country, lower courts routinely narrow the holding of *Troxel* to a restrictive, third-party context. By limiting *Troxel* strictly to cases involving grandparents or non-parents, family courts nationwide—including the California courts below—systematically ignore the fundamental liberty interests of fit parents during custody modifications, forcing them to submit to arbitrary “best-interests” reductions with zero constitutional safeguards.

These issues warrant this Court’s review. This Court should clear up a massive blind spot affecting hundreds of thousands of American families. With no constitutional safeguards or procedures, 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 petition specifically sought a constitutional rule requiring heightened scrutiny when courts impose substantial and indefinite restrictions on a fit parent’s custodial allocation. These issues are recurring nationwide, exceptionally important, and directly concern the constitutional boundary between ordinary domestic-relations adjudication and state interference with a parent’s fundamental liberty interests.

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 that 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 that principle. There, the Court concluded that the trial court gave insufficient weight to a fit parent’s own determination of her children’s best interests, rejecting the premise that a judicial assessment of what might be “better” for the child alone authorizes the State to override a fit parent’s childrearing decision. *Troxel v. Granville*, 530 U.S. 57, 73 (2000).

The constitutional problem identified in *Troxel* is implicated when a court substantially restricts a parent’s custodial time based only on a general best-interests inquiry. The family court imposed the challenged reduction with no finding of parental unfitness and with no constitutional justification for the severity of the restriction. The family court order substituted a generalized determination of the child’s best interests for the constitutionally protected status of a fit parent.

The family court substantially infringed upon Petitioner’s constitutionally protected 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 court failed to explore any less-restrictive alternatives.

The 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-interests 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 exploration of less-restrictive alternatives (App. 3a–5a).

This case presents an appropriate opportunity to clarify that a general best-interests standard, standing alone, does not supply the constitutional grounds required when the State substantially and indefinitely deprives a fit parent of his or her 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, 754 (1982).

Petitioner does not contend that the State is powerless to protect a child from danger or to regulate parental decisions when the child’s physical or mental health is jeopardized. This Court has recognized that States possess constitutional authority in such circumstances. *Parham v. J.R.*, 442 U.S. 584, 603 (1979). The question is what constitutional safeguard applies when the State substantially curtails the physical custody of a parent whom the court has not found unfit.

Petitioner contends that heightened scrutiny is required because physical custody lies at the heart of the federally protected parent-child relationship. Under

this standard, 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 protect the children's interests.

Here, the need for defined constitutional standards is acute. The family court reduced Petitioner's physical custody from an equal shared 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 stated governmental objective, and fails to consider less-restrictive alternatives (App. 3a–5a). The order sets a recurring weekly parenting schedule while reserving other issues until further order, leaving the schedule with no expiration date. The result is a continuous and ongoing deprivation 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-interests determination, with no heightened constitutional scrutiny and no consideration of less-restrictive alternatives. But the Fourteenth Amendment's guarantee of parental liberty requires more.

This Court's review is urgently needed to establish a uniform national standard that protects fit parents from arbitrary state deprivation of their 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 directly asked the Court of Appeal whether the Fourteenth Amendment requires strict scrutiny when family courts substantially and indefinitely reduce a fit parent's physical custody rights, whether family courts must narrowly tailor custody orders to effectuate an overriding governmental 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 completely unanswered and provides no guidance concerning the constitutional limitations on family court 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).

Having fully and unsuccessfully exhausted all avenues of relief in the state courts, Petitioner has nowhere left to turn but this Court. This Court's review is necessary to resolve these pending constitutional questions and provide a definitive framework to family courts nationwide.

Because the lower courts insulated their decisions behind unexplained summary denials, there are no independent and adequate state-law grounds or messy factual disputes blocking review. The core Fourteenth Amendment due process question is here presented cleanly, framed sharply, and is now fully ripe for adjudication.

CONCLUSION

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

Respectfully Submitted,



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Petitioner's Counsel

Dated: October 6, 2026

Appendix A

Order of the California Supreme Court

Denying the Petition for Review

(Filed July 8, 2026)

JUL 08 2026

Court of Appeal, Third Appellate District - No. C106239 Jorge Navarrete Clerk

S296710

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

RICHARD BAJKOWSKI, Petitioner,

v.

SUPERIOR COURT OF SHASTA COUNTY, Respondent;

DEVORAH BAJKOWSKI, Real Party in Interest.

The petition for review is denied.

GUERRERO

Chief Justice

Appendix B

Order of the California Court of Appeal,
Third Appellate District, Denying the Petition
for a Writ of Mandate (Filed July 8, 2026)

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

RICHARD BAJKOWSKI,
Petitioner,
v.
THE SUPERIOR COURT
OF SHASTA COUNTY,
Respondent;
DEVORAH BAJKOWSKI,
Real Party in Interest.

C106239
Shasta County
No. 1983777

BY THE COURT:

The petition for writ of mandate is denied.


HULL, Acting P.J.

cc: See Mailing List

Appendix C

Custody Order of the California Superior Court

(Filed November 11, 2024)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Carmel C. D'Amato 287092 SEINTURIER & D'AMATO 1428 West Street Redding, CA 96001 TELEPHONE NO.: (530) 243-0253 FAX NO. (Optional): (530) 243-5475 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Devorah Bajkowski		FOR COURT USE ONLY FILED NOV 22 2024 <i>KP</i> SHASTA COUNTY SUPERIOR COURT BY: K. PRIDE, DEPUTY CLERK
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA STREET ADDRESS: 1515 Court Street MAILING ADDRESS: CITY AND ZIP CODE: Redding, CA 96001 BRANCH NAME:		
PETITIONER/PLAINTIFF: Devorah Bajkowski RESPONDENT/DEFENDANT: Richard Bajkowski OTHER PARTY:		
FINDINGS AND ORDER AFTER HEARING		
		CASE NUMBER: 198377

1. This proceeding was heard on (date): **10/29/2024** at (time): **8:30 a.m.** In Dept.: **53** Room:
- by Judge (name): **Gary G. Gibson** ☐ Temporary Judge
- On the order to show cause, notice of motion or request for order filed (date): **07/30/2024** by (name): **Devorah Bajkowski**
- a. ☒ Petitioner/plaintiff present ☒ Attorney present (name): **Carmel C. D'Amato**
- b. ☒ Respondent/defendant present ☐ Attorney present (name):
- c. ☐ Other party present ☐ Attorney present (name):

THE COURT ORDERS

2. Custody and visitation/parenting time: As attached ☐ on form FL-341 ☒ Other ☐ Not applicable
3. Child support: As attached ☐ on form FL-342 ☒ Other ☐ Not applicable
4. Spousal or family support: As attached ☐ on form FL-343 ☒ Other ☒ Not applicable
5. Property orders: As attached ☐ on form FL-344 ☐ Other ☒ Not applicable
6. Attorney's fees: As attached ☐ on form FL-346 ☐ Other ☒ Not applicable
7. Other orders: ☒ As attached ☐ Not applicable
8. All other issues are reserved until further order of court.
9. ☒ This matter is continued for further hearing on (date): **01/27/2025** at (time): **10:00 a.m.** In Dept.: **53**
 on the following issues: **Status of Father's Receipt of Disability Payments/Imputation of Income to Father**

Date:

11-22-24

JUDICIAL OFFICER

Approved as conforming to court order.

11 / 15 / 2024

*RICHARD BAJKOWSKI***Richard Bajkowski**SIGNATURE OF ATTORNEY FOR ☐ PETITIONER/PLAINTIFF ☒ RESPONDENT/DEFENDANT ☐ OTHER PARTY

Page 1 of 1

SHORT TITLE:

Bajkowski vs. Bajkowski

CASE NUMBER:

198377

CHILD CUSTODY AND PARENTING TIME**A. The parties have one minor child: [REDACTED] (DOB: [REDACTED]).**

B. The child shall be with FATHER from Friday after school or 3:00 p.m. until Sunday at 5:00 p.m. Father's time shall be two consecutive weekends, followed by one weekend with Mother, with this rotation of two weekends with Father, one weekend with Mother, continuing. As a demonstration of this schedule, the dates for Father's time with the child over the next few months are as follows:

11/01/2024 after school or 3:00 p.m. to 11/03/2024 at 5:00 p.m.

11/15/2024 after school or 3:00 p.m. to 11/17/2024 at 5:00 p.m.

11/22/2024 after school or 3:00 p.m. to 11/24/2024 at 5:00 p.m.

12/06/2024 after school or 3:00 p.m. to 12/08/2024 at 5:00 p.m.

12/13/2024 after school or 3:00 p.m. to 12/15/2024 at 5:00 p.m.

12/27/2024 after school or 3:00 p.m. to 12/29/2024 at 5:00 p.m.

01/03/2025 after school or 3:00 p.m. to 01/05/2025 at 5:00 p.m.

01/20/2025 after school or 3:00 p.m. to 01/22/2025 at 5:00 p.m.

01/27/2025 after school or 3:00 p.m. to 01/29/2025 at 5:00 p.m.

Exchanges shall occur at the child's school or at the [REDACTED]

C. All additional orders including holidays, vacations, special days, and general provisions that are included in the Child Custody and Visitation Agreement/Order filed 05/18/2023 and attached hereto shall remain.

D. As ordered on 05/30/2024, the parties are to utilize Talking Parents for co-parenting communications, with a 24 hour response time.

/

(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):

This page may be used with any Judicial Council form or any other paper filed with the court.

Page _____

SHORT TITLE:

Bajkowski vs. Bajkowski

CASE NUMBER:

198377

CHILD SUPPORT/SPOUSAL SUPPORT

A. This matter is continued to 01/27/2025 at 10:00 a.m. in Department 53 for
Status of Father's Receipt of Disability Payments/Imputation of Income to Father.

OTHER ORDERS

A. Petitioner shall sign off on the tax refund checks for tax year 2022 related to
refunds from the IRS/US Treasury, State of California, and State of Pennsylvania.
Respondent shall be entitled to retain 100% of the refund.

/

(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):

This page may be used with any Judicial Council form or any other paper filed with the court.

Page _____

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 33.1(h) of the Rules of this Court, I certify that this petition contains 2,446 words, excluding the parts of the petition exempted by Rule 33.1(d).

This petition was prepared using a proportionally spaced typeface in accordance with Rule 33.1.

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Petitioner's Counsel

Dated: October 6, 2026

CERTIFICATE OF SERVICE

I, T. Matthew Phillips, a member of the Bar of this Court, hereby certify that on this 6th day of October, 2026, as required by Supreme Court Rule 29, I caused three (3) copies of the foregoing Petition for a Writ of Certiorari to be served on the following unrepresented Respondent and counsel for the Real Party in Interest by depositing the copies in a United States Post Office or official depository, first-class mail postage prepaid, addressed as follows:

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Counsel for Real Party in Interest,
Devorah Bajkowski

SHASTA COUNTY SUP. CT.
DEPARTMENT 53
Hon. Judge Gary Gibson
1515 Court Street, Room 319
Redding, Calif., 96001
Respondent



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Dated: October 6, 2026