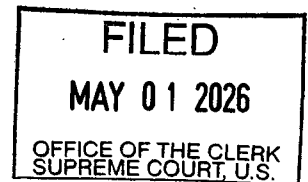


26-5938
No.



IN THE SUPREME COURT OF THE UNITED STATES

BRIAN M. MCCARTHY,

Petitioner,

v.

Marcie E. Lombard,

Respondent.

ORIGINAL

On Petition for a Writ of Certiorari to the Massachusetts Appeals Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Fourteenth Amendment permits a State to diminish the fundamental rights of a concededly fit parent—including the removal of decision-making authority over the child and the restriction of independent constitutional rights—through discretionary “best interests” balancing that applies a moral, emotional, or logistical audit not required of fit parents in intact families, or whether such interference is constitutionally permissible only upon a defined and objectively applied finding of unfitness or serious harm, consistent with this Nation’s history and tradition.

LIST OF PARTIES AND RELATED CASES

Brian M McCarthy, Petitioner

Marcie E Lombard, Respondent

Middlesex Probate and Family Court, Case No. MI22W0550WD, *Marcie E. Lombard v. Brian M. McCarthy*. Judgment entered March 12, 2024.

Massachusetts Appeals Court, Case No. 2024-P-0916, *Marcie E. Lombard v. Brian M. McCarthy*. Judgment entered December 18, 2025.

Massachusetts Supreme Judicial Court, Case No. FAR-30719, *Marcie E. Lombard v. Brian M. McCarthy*. Order denying further appellate review entered February 12, 2026.

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I. OPINIONS BELOW

The summary memorandum and order of the Massachusetts Appeals Court, entered December 18, 2025, is unreported and reproduced at *App. 1a–13a*. The order of the Massachusetts Supreme Judicial Court denying further appellate review, dated February 12, 2026, is unreported and reproduced at *App. 19a*. The judgment of the Middlesex Probate and Family Court, entered March 12, 2024, is unreported and reproduced at *App. 14a–18a*.

II. JURISDICTION

The judgment of the Massachusetts Appeals Court sought to be reviewed was entered on December 18, 2025.

The Supreme Judicial Court of Massachusetts denied an application for further appellate review on February 12, 2026.

No petition for rehearing was filed in the Massachusetts Appeals Court or the Supreme Judicial Court.

No extension of time within which to file this petition for a writ of certiorari was sought or granted.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

The petition is timely filed under Supreme Court Rule 13.

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant constitutional and statutory provisions involved in this case are set forth below:

U. S. Const. art. VI, cl. 2 (Supremacy Clause) "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

U. S. Const. amend. XIV, § 1 (Due Process and Equal Protection Clauses) "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. II (Second Amendment) "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Mass. G.L. c. 208, § 31 (Relevant Part) "In making an order or judgment relative to the custody of children, the rights of the parents shall, in the absence of misconduct, be held to be equal, and the **happiness and welfare** of the children shall determine their custody. When considering the happiness and welfare of the child, the court shall consider whether or not the child's present or past living conditions **adversely affect** his physical, mental, moral or emotional health."

Mass. G.L. c. 119, § 24 (Relevant Part - The "Defined Trigger" for Intact Families) "The [court]... may upon the petition of any person... alleging on behalf of a child... that said child is without: (a) necessary and proper physical or educational care and discipline; or (b) is growing up under conditions or circumstances damaging to the child's sound character development; or (c) who lacks proper attention... or (d) whose parents... are unwilling, incompetent or unavailable to provide any such care, discipline or attention... [issue a] cautionary order."

IV. STATEMENT OF THE CASE

This case arises from a custody determination in which the Massachusetts Trial Court issued findings of fact that establish Petitioner's fitness. Specifically, the court found that Petitioner provides a "safe and stable environment" and that his parenting time has consistently "progressed without incident." Critically, the court did not identify any finding of unfitness, harm, or danger.

The Trial Court further characterized Petitioner as a "devoted" parent who "treasure(s) [the child]"(App. 38a). The court formally credited Petitioner's two-year sobriety and confirmed that, despite the contested nature of the litigation, his parenting time remained entirely incident-free. Furthermore, the record establishes that Petitioner's parenting time had never been supervised, even during overnight periods, which acknowledges his status as a fit and safe parent under the law.

Notwithstanding these findings, the court awarded Mother sole legal custody and primary physical custody and imposed additional conditions on Petitioner's parenting pursuant to Mass.

G.L. c. 208, § 31 (App. 48 a). The court did not identify any defined legal standard governing when such intervention is authorized but instead relied on discretionary determinations under the “Best Interests of the Child” doctrine applied through Mass. G.L. c. 208, § 31 (App. 48 a).

The Trial Court also ordered the removal of all firearms and ammunition from Petitioner’s home (App. 21a), without any finding of dangerousness or other defined legal basis for that restriction.

This case presents a clean and direct vehicle to address the constitutional limits on discretionary decision-making. The findings below establish that Petitioner is a fit parent, yet his rights were diminished in the absence of any defined legal standard governing when such intervention is authorized. The result illustrates the constitutional consequences of a framework that permits the exercise of state power without objective limits, allowing fundamental rights to be reduced through discretionary judgment rather than governed by law.

V. SUMMARY OF THE ARGUMENT

The judgment below rests on a method of adjudication this Court has increasingly rejected: the use of open-ended, standardless balancing to diminish fundamental rights. By permitting courts to override the decisions of a concededly fit parent through discretionary “best interests” determinations untethered to any defined legal standard, the framework applied below does not operate as a rule of law, but as a mechanism for substituting judicial judgment for parental authority.

In *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022), the Court rejected means-end balancing in favor of rules grounded in text and history. The Court further clarified that the very enumeration of a right removes from the government ‘the power to decide on a case-by-case basis whether the right is worth insisting upon. Consequently, a fundamental

guarantee “subject to future judges’ assessments of its usefulness is no constitutional guarantee at all”, quoting *District of Columbia v. Heller*, 554 U. S. 570, 634 (2008).

The Court rejected means-end balancing in favor of rules grounded in text and history; and in *Dobbs v. Jackson Women's Health Organization*, 597 U. S. 215, 231 (2022), it emphasized that the scope of rights and state authority must be grounded in this Nation’s history and tradition. This Court further clarified that for a right to be protected, it must be 'deeply rooted in this Nation’s history and tradition' and 'implicit in the concept of ordered liberty. Because the parental right to care, custody, and control is unquestionably so rooted, it cannot be diminished by a modern discretionary framework that lacks any comparable historical foundation.

In the parental-rights context, that historical tradition is not abstract it is defined. At common law, parents possessed primary authority over the care, custody, and upbringing of their children, while the State’s *parens patriae* power was limited and conditional, not general or discretionary. As Blackstone explained, parental authority arises from duty, and the parent-child relationship is governed primarily by that obligation rather than general state control. 1 W. Blackstone, Commentaries 447. Consistent with that tradition, this Court has held that the Due Process Clause entitles a parent to 'a hearing on his fitness as a parent before his children were taken from him.' *Stanley v. Illinois*, 405 U. S. 645, 658 (1972).

“Because there is a presumption that fit parents act in the best interests of their children”, the State may not inject itself into the family realm to “further-question the ability of that parent to make the best decisions” absent a finding of unfitness. *Troxel v. Granville*, 530 U. S. 57, 68–69 (2000) (plurality opinion). The framework below departs from that constitutional structure by permitting the State to intrude upon the rights of a concededly fit parent based on open-ended assessments of what a court believes is 'best,' untethered to any defined legal threshold. The

absence of such a limiting principle places it outside the Nation's historical tradition of ordered liberty.

The historical inquiry does not require identical modern circumstances. The reasons for state intervention may evolve. What history establishes, however, is the structure of permissible state action: interference with fundamental rights was permitted only under defined legal conditions, applied through objective and bounded standards. At common law, the State's *parens patriae* authority was limited and conditional, triggered only by recognized deficiencies such as unfitness, abandonment, or harm—not by a general interest in determining what outcome would be preferable for a child.

The decision below departs from that constitutional structure. It permits the State to diminish a fit parent's fundamental rights based on discretionary assessments of the "happiness and welfare" of the children—a standard found in the statute that provides no objective benchmarks—and whether living conditions "adversely affect" a child's health Mass. G.L. c. 208, § 31 (App. 48a). These statutory factors are neither defined by law nor constrained by objective limits. While modern realities may require courts to consider the well-being of a child, due process requires that the circumstances under which they justify interference be defined in advance and applied through objective standards.

In the absence of such a governing rule, the framework necessarily produces inconsistent and unequal applications of constitutional rights. Similarly situated fit parents are subjected to materially different levels of state intrusion based not on any defined legal threshold, but on the personal whim of a single justice. Without such limits, a fundamental right becomes contingent on judicial preference rather than governed by law.

This approach is incompatible with this Court's recognition that a fit parent is presumed to act in the best interests of their child, and that the State may not override that judgment based on a "mere disagreement" about what arrangement would be preferable. *Troxel v. Granville*, 530 U. S. 57, 68, (2000) (plurality opinion). By permitting courts to diminish parental rights without a defined legal trigger, the "Best Interests" framework operates not as a rule of law, but as a mechanism for substituting judicial judgment for parental authority. At bottom, this case presents whether a fundamental constitutional right may be diminished through standardless, discretionary frameworks, or whether the Constitution requires that such deprivations be governed by defined legal rules that constrain state power and ensure that constitutional protections do not vary from case to case. The question presented is not whether the State may ever intervene, but whether the Constitution permits such intervention in the absence of a defined rule governing when it is authorized.

VI. REASONS FOR GRANTING THE PETITION

This case presents a question of exceptional national importance: whether a State may diminish the fundamental rights of a concededly fit parent through discretionary balancing in the absence of any defined legal standard governing that deprivation. The "best interests of the child" framework governs custody determinations nationwide, yet no uniform constitutional rule defines when the State may override the judgment of a fit parent. As a result, a recognized fundamental liberty interest is subjected to materially different treatment across jurisdictions—not based on law, but on discretionary judgment.

This Court's recent decisions make clear that constitutional rights cannot be subjected to unbounded judicial discretion. In *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022), the Court rejected means-end balancing in favor of rules grounded in text and

history, clarifying that the very enumeration of a right removes from the government the "power to decide on a case-by-case basis whether the right is worth insisting upon." In *Dobbs v. Jackson Women's Health Organization*, 597 U. S. 215, 231 (2022), the Court emphasized that for a right to be protected by the Due Process Clause, it must be "deeply rooted in this Nation's history and tradition" and "essential to our Nation's scheme of ordered liberty". In the parental-rights context, that historical tradition is well established. At common law, parents possessed primary authority over the care, custody, and upbringing of their children, while the State's *parens patriae* power was limited and conditional, not general or discretionary. See 1 W. Blackstone, Commentaries 440–41 (describing parental authority as a natural duty and recognizing state intervention only where that duty failed). Consistent with that tradition, this Court has held that the Due Process Clause "entitled petitioner to a hearing on his fitness as a parent before his children were taken from him." *Stanley v. Illinois*, 405 U. S. 645, 658 (1972). Under this framework, the State must provide an individualized determination of fitness before depriving a parent of custody, see also *Troxel v. Granville*, 530 U. S. 57, 68–69 (2000) (plurality opinion) (rejecting state interference with a fit parent's decisions based on "mere disagreement." The framework below departs from that constitutional structure. It permits the State to intrude upon the rights of a concededly fit parent based on open-ended assessments of what a court believes is "best," untethered to any defined legal threshold. The absence of such a limiting principle places it outside the Nation's historical tradition of ordered liberty.

Despite this Court's clear rejection of open-ended balancing in constitutional adjudication, lower courts—particularly in the family-law context—continue to apply discretionary frameworks that permit the diminution of fundamental rights without defined legal standards. In practice, this has allowed state courts to reach outcomes that cannot be reconciled

with this Court's precedent, not by distinguishing it, but by operating outside the framework it requires. The result is a form of constitutional inconsistency in which a recognized fundamental right is governed by this Court's decisions in theory, but by discretionary judgment in application.

The decision below exemplifies that unresolved constitutional problem. The Trial Court expressly found Petitioner to be a "devoted" and "safe" parent (App. 42a, App. 36a), yet diminished his custodial rights, imposed ongoing conditions on his parenting, and restricted his autonomy without identifying any finding of unfitness, harm, or danger sufficient to justify state intervention. Instead, the court relied on generalized considerations of "stability," "continuity," and logistical preference—factors not defined by law and not constrained by any objective standard governing when such considerations are sufficient to override a fundamental right.

By permitting unsupervised overnight parenting time, the Trial Court made a determination that Petitioner posed no threat to the child's safety. The subsequent diminution of his rights therefore cannot be justified as protective, but reflects discretionary judgment untethered to any defined legal standard.

The scope of authority exercised here illustrates the absence of any limiting principle within the governing framework. The Trial Court invoked the "best interests of the child" standard, yet that standard, as applied, does not define when the State may impose specific intrusions on a concededly fit parent. Under that framework, the State imposed multiple forms of control—including restrictions on parenting time, decision-making authority, communication, lawful conduct, and the exercise of constitutional rights—without identifying any rule that determines when such measures are permitted (App. 17a–22a).

The constitutional defect is not that these intrusions were imposed, but that the governing standard supplies no criteria that distinguish when such measures are authorized from when they are not. As a result, materially similar circumstances may yield materially different outcomes, not based on law, but on discretionary judgment. A framework that provides no limiting principle for the exercise of state power over a fundamental right cannot satisfy the requirements of due process.

While some limitation on parenting time is inherent where two parents share custody, the unequal allocation of that time necessarily requires a governing legal standard. The decision below identifies none, instead permitting the diminution of one parent's rights without any defined rule distinguishing permissible allocation from unconstitutional interference.

This case therefore presents a clean and direct vehicle to resolve a question this Court has not yet answered: whether the Constitution permits the State to diminish the rights of a fit parent in the absence of a defined legal standard governing that deprivation. Because the Trial Court's findings establish Petitioner's fitness, the question presented does not turn on disputed facts, but on the constitutional limits of state authority.

Absent this Court's review, the application of the "Best Interests of the Child" doctrine will continue to produce inconsistent outcomes in materially similar cases, leaving a fundamental right without uniform constitutional protection. Where no rule governs when a right may be diminished, its protection depends not on law, but on discretion. The Constitution does not permit such a result.

A. THE COURT SHOULD GRANT REVIEW TO RESOLVE THE INCONSISTENT APPLICATION OF FOURTEENTH AMENDMENT STANDARDS.

This Court has made clear that fundamental rights must be governed by defined, historically grounded limits—not open-ended balancing. Yet family courts continue to apply discretionary frameworks that permit the diminution of fundamental parental rights without objective standards.

i. The Failure of Uniformity in Constitutional Protection.

This inconsistency is not theoretical; it arises routinely in custody proceedings nationwide. Under statutes such as Mass. G.L. c. 208, § 31, courts routinely rely on considerations such as “happiness and welfare” and logistical preference to determine parenting outcomes. Because these considerations are not defined by law, materially similar cases produce materially different results, leaving the protection of fundamental rights dependent on discretionary judgment rather than uniform legal rules.

This Court has rejected open-ended balancing in other constitutional contexts. Yet in the family-law context, similar discretionary reasoning continues to govern the allocation of fundamental parental rights. The result is not merely variation in adjudication, but the absence of a governing legal standard capable of producing consistent outcomes for a recognized liberty interest.

The lack of a uniform constitutional standard has resulted in a patchwork of parental rights across jurisdictions, where some States employ defined rules while others rely on open-ended discretion, leaving the protection of a fundamental right dependent on the forum rather than governed by a consistent rule of law.

This Court’s plurality decision in *Troxel v. Granville* left unresolved what constitutional standard governs when the State may override the decisions of a fit parent. In the absence of that guidance, lower courts have adopted materially different approaches, with some requiring a

threshold showing of harm or unfitness before permitting state interference, and others allowing discretionary balancing under a “best interests” framework without such a defined standard.

This divergence has produced inconsistent constitutional protection of a fundamental right, where materially similar facts yield materially different outcomes depending on the jurisdiction.

That lack of uniformity is not incidental, but structural. It reflects the absence of a controlling constitutional rule governing when a State may diminish the rights of a fit parent. As a result, courts have effectively applied *Troxel* according to their own interpretation, leaving the scope of a fundamental right to vary based on discretionary judgment rather than governed by law.

The Constitution does not permit such a result. A fundamental right cannot depend on the jurisdiction in which it is asserted, nor on how individual courts interpret an unresolved plurality decision. This Court’s review is necessary to resolve that inconsistency and to establish a uniform standard governing when the State may constitutionally interfere with the rights of a fit parent.

ii. The Best Interests Doctrine as an Unresolved Constitutional Question.

This Court has recognized that “there is a presumption that fit parents act in the best interests of their children.” *Troxel v. Granville*, 530 U. S. 57, 68–69 (2000). At the same time, this Court has not resolved whether the State may diminish a fit parent’s rights through discretionary balancing absent objective legal standards or historically grounded limits.

In practice, lower courts routinely apply the “Best Interests of the Child” doctrine without identifying a defined legal trigger—such as unfitness or harm—sufficient to justify state intervention. Instead, courts substitute their judgment for that of a fit parent based on generalized

assessments of what arrangement would be preferable. Where the governing doctrine supplies no objective criteria, constitutional protection becomes contingent on discretionary application rather than governed by law. This case squarely presents whether that approach is consistent with the Fourteenth Amendment.

Absent this Court's review, the application of the "Best Interests of the Child" doctrine will continue to produce inconsistent outcomes in materially similar cases, leaving a fundamental right without uniform constitutional protection and permitting its scope to turn on discretionary determinations rather than governing law.

iii. Disparate Treatment of Similarly Situated Fit Parents Underscores the Absence of a Governing Standard

The decision below exposes a fundamental constitutional defect: in the absence of any defined standard governing when the State may intrude upon the rights of a fit parent, similarly situated parents are subjected to materially different levels of state control based solely on marital status.

The Constitution does not recognize a diminished parental right based on marital status. This Court has made clear that the fundamental liberty interest in the care, custody, and control of one's child applies equally to all fit parents. *Troxel v. Granville*, 530 U. S. 57, 65–66 (2000). Likewise, the Court has repeatedly rejected distinctions between married and unmarried parents where fitness is not at issue, holding that the 'private interest' of a father in the children he has sired and raised "warrants deference and, absent a powerful countervailing interest, protection." *Stanley v. Illinois*, 405 U. S. 645, 651 (1972). Because the State may not 'merely presume' that a parent is unsuitable, an unwed father may not be deprived of parental rights without an individualized showing of unfitness. *Stanley v. Illinois*, 405 U. S. 645, 657-658 (1972).

Under Massachusetts law, however, custody determinations for separated or divorced parents are governed by a “best interests of the child” framework that permits state interference without any threshold requirement of harm or unfitness. By contrast, where a child resides in an intact family, the State may not intrude upon parental decision-making, absent defined statutory grounds such as abuse or neglect. See G.L. c. 119, §§ 24, 51A–51F.

As to fitness, these parents are similarly situated. Both are concededly fit and are presumed to act in the best interests of their child. Yet the State subjects one group to open-ended judicial scrutiny while requiring defined statutory grounds before it may intrude upon the other. That disparity is not the result of any governing rule distinguishing between the two classes of parents, but rather the absence of one.

Because the “best interests” framework provides no defined threshold for intervention, it permits the State to diminish the rights of a fit parent based on discretionary assessments alone. The result is that the scope of a fundamental right varies not according to any constitutionally grounded standard, but according to marital status.

The Constitution does not permit a regime in which similarly situated fit parents are subjected to materially different levels of state intrusion absent a defined and uniform rule governing when such interference is authorized. The unequal treatment present here is not incidental—it is the inevitable consequence of a framework that provides no limiting principle.

The absence of any defined legal threshold governing when such factors justify intervention permits materially different treatment of similarly situated parents without a constitutionally grounded basis for that distinction.

iv. This Case Presents a Clean and Direct Vehicle.

This case presents a clean vehicle to resolve the questions presented. The Trial Court found that Petitioner provides a “safe and stable environment” and that his parenting time has “progressed without incident” (App. 36a; App. 42a) and credited his sobriety (App. 32a). These findings establish that Petitioner is a fit parent. Those same findings eliminate any safety-based justification for state intervention, rendering the subsequent deprivation of rights explicable only as the product of discretionary judgment rather than the application of a defined legal standard. Yet despite those findings, the court reduced his custodial rights, imposed ongoing conditions on his parenting, and ordered the removal of firearms from his home (App. 21a). The question presented is therefore purely legal: whether the Constitution permits the State to diminish the rights of a fit parent without a defined legal standard governing that deprivation. *See Troxel v. Granville*, 530 U. S. 57, 65–66 (2000) (recognizing the fundamental rights of fit parents).

While the Trial Court noted Petitioner’s past alcohol use, it simultaneously credited his sobriety and permitted unsupervised parenting time, and the Trial Court further noted that the parties agreed on major child-rearing decisions yet stripped the father of legal custody. These internal contradictions confirm that the subsequent deprivation of rights was not based on a finding of unfitness or harm, but on the exercise of standardless discretion.

The Trial Court’s reliance on Petitioner’s past alcohol consumption underscores the absence of any governing legal standard. The court identified no finding of harm, neglect, or unfitness sufficient to authorize state intervention, and expressly permitted ongoing unsupervised parenting time while crediting Petitioner’s sobriety. These findings establish that Petitioner satisfied the legal standard of a fit parent. Yet the court nonetheless reduced his custodial rights based on its assessment of that past conduct. To the extent the State may act to prevent potential harm, the Constitution requires that the circumstances under which such action is taken be

governed by defined legal standards that constrain discretion. The void-for-vagueness doctrine requires that a statute establish "minimal guidelines to govern law enforcement" to prevent a "standardless sweep [that] allows policemen, prosecutors, and juries to pursue their personal predilections." *Kolender v. Lawson*, 461 U. S. 352, 358 (1983), the Court held that the administration of a law "with an evil eye and an unequal hand"—made possible by a lack of standards—is intolerable under the Fourteenth Amendment, *Yick Wo v. Hopkins*, 118 U. S. 356, 373–374 (1886).

The Trial Court likewise justified the removal of legal custody based on perceived communication difficulties between the parties. Yet the court also found that the parties made joint decisions regarding the child's schooling during the litigation (App. 36a). These findings underscore the absence of any defined legal standard governing when communication challenges rise to a level sufficient to justify the removal of a parent's fundamental right to participate in major decisions affecting their child. Without such a standard, determination turns on discretionary judgment rather than the application of a rule of law.

If Petitioner's conduct was insufficient to establish unfitness or require supervision, and if the parties' communication was sufficient to permit joint decision-making in practice, then the decision cannot be explained by the application of any defined legal threshold. Instead, it reflects the exercise of discretionary authority untethered to a governing rule. The Constitution does not permit a fundamental right to be diminished under a framework that supplies no standard for when such conduct justifies state interference.

Because the Trial Court's findings establish Petitioner's fitness and the absence of any defined legal threshold governing intervention, this case does not turn on disputed facts. It

presents a clean constitutional question regarding the limits of state authority under the Fourteenth Amendment.

B. THE DECISION BELOW CONFLICTS WITH THIS COURT'S RECOGNITION OF THE CONSTITUTIONAL RIGHTS OF FIT PARENTS.

This Court has long recognized that the Constitution protects the fundamental right of parents to direct the care, custody, and upbringing of their children. Central to that protection is the principle that a fit parent is presumed to act in the best interests of their child, and that the State may not simply substitute its judgment for that of the parent. *Troxel v. Granville*, 530 U. S. 57, 72 (2000).

The decision below cannot be reconciled with that principle. The Trial Court found that Petitioner provides a "safe and stable environment" and that his parenting time has "progressed without incident" (App. 36a; App. 42a) and credited his sobriety (App. 32a). Yet the court diminished his custodial rights, imposed ongoing conditions on his parenting, and restricted his autonomy based on discretionary determinations of what arrangement would be preferable. The court did not identify any finding of unfitness, harm, or danger sufficient to justify overriding the presumption recognized in *Troxel*.

This case therefore presents a question that remains unresolved in this Court's jurisprudence: what legal standard is required to overcome the presumption that a fit parent acts in the best interests of their child? While *Troxel v. Granville*, 530 U. S. 57, 68 (2000) rejected the State's ability to override a parent's judgment based on a mere disagreement, lower courts continue to apply frameworks that permit precisely that result.

In the absence of a clear constitutional rule, courts have diminished the rights of fit parents without identifying any defined legal threshold for intervention. Here, the Trial Court's

own findings establish that Petitioner satisfied the standard of a fit parent, yet his rights were reduced and conditioned without a corresponding legal basis sufficient to justify state interference.

This case provides an appropriate vehicle for the Court to clarify that the presumption recognized in *Troxel v. Granville*, 530 U. S. 57, (2000), is a constitutional limitation on state authority, not a discretionary consideration. The Court should grant review to determine what legal standard governs when a State may override the decisions of a fit parent consistent with the Fourteenth Amendment.

C. THE ABSENCE OF DEFINED LEGAL STANDARDS GOVERNING STATE INTERVENTION VIOLATES DUE PROCESS.

The decision below exposes a fundamental due process defect: the absence of any defined legal standard governing when the State may intervene in the parent-child relationship of a fit parent.

The Due Process Clause requires that laws provide fair notice of the conduct that may result in the deprivation of liberty and establish standards sufficient to constrain the exercise of state authority. *Grayned v. City of Rockford*, 408 U. S. 104, 108 (1972). These requirements ensure that fundamental rights are not diminished through arbitrary or inconsistent application.

As applied, the “Best Interests of the Child” doctrine does not identify a threshold condition that authorizes state interference. Instead, courts rely on generalized considerations such as “stability,” “continuity,” and logistical preference—terms that are not defined by law and do not establish objective criteria for when intervention is permitted.

As a result, parents lack meaningful notice of what conduct will preserve or jeopardize their rights. A fit parent may comply with all legal obligations and still face a reduction in

custodial rights based on discretionary assessments untethered to any governing rule. The framework thus fails to distinguish between lawful and unlawful conduct in a manner that provides fair notice or constrains decision-making.

This absence of defined standards produces inconsistent outcomes in materially similar cases. Considerations such as distance between households, school placement, or scheduling constraints may be deemed compatible with shared parenting in one case and incompatible in another—not because the governing law has changed, but because no governing rule defines when such factors justify diminishing a fit parent’s rights. To prevent arbitrary enforcement, laws must provide “explicit standards for those who apply them” to avoid delegating policy matters to judges on an ‘ad hoc and subjective basis.’ *Grayned v. City of Rockford*, 408 U. S. 104, 108-109 (1972).

The problem is particularly acute where courts rely on a “status quo” established through unilateral action by one parent prior to judicial review. When a framework permits the codification of such circumstances without an objective legal standard, it permits the codification of circumstances not grounded in objective legal criteria.

This case squarely presents whether the Due Process Clause permits the State to diminish a fit parent’s fundamental rights under a framework that provides no defined standard governing when intervention is authorized. The Court should grant review to determine whether the Constitution requires clear, objective rules that provide fair notice and constrain the exercise of state power before such rights may be reduced.

The Constitution has never permitted the deprivation of fundamental rights through standardless discretion. From its earliest understanding, the exercise of state power over individual liberty has been required to operate through defined legal rules that provide notice and

constrain decision-making. While the content of those rules may evolve, the requirement that rights be governed by law—rather than by case-by-case judgment—remains constant. The framework applied below departs from that principle by permitting the diminution of a fundamental right without a defined legal standard governing when such intervention is authorized.

D. THE FOURTEENTH AMENDMENT REQUIRES DEFINED LEGAL STANDARDS—ROOTED IN HISTORY—BEFORE THE STATE MAY INTERFERE WITH A FIT PARENT’S RIGHTS.

This case presents the same constitutional problem this Court has rejected in other contexts: the use of open-ended balancing to diminish a fundamental right without defined legal limits. In *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022) and *Dobbs v. Jackson Women’s Health Organization*, 597 U. S. 215, 231 (2022), the Court made clear that both the scope of a right and the circumstances under which it may be restricted must be evaluated by reference to this Nation’s history and tradition. As this Court explained, the enumeration of a right removes from government the power to decide on a case-by-case basis whether it is “worth insisting upon.” *District of Columbia v. Heller*, 554 U. S. 570, 634 (2008), quoted in *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022).

The framework applied below does precisely what this Court has forbidden: it places the existence and scope of a fundamental right into the hands of a judge applying discretionary balancing.

The requirement that constitutional rights be governed by defined legal standards is not a modern innovation; it is inherent in the historical structure that defines the limits of state authority. As this Court explained in *New York State Rifle & Pistol Association v. Bruen*, 597 U.

S. 1, 24 (2022), “The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation” and reaffirmed in *Dobbs v. Jackson Women’s Health Organization*, 597 U. S. 215, 231 (2022), constitutional limits are determined by reference to historically grounded principles, not evolving judicial discretion. That inquiry does not require identical modern conditions, but it does require that the *reasons* for state interference be rooted in a governing legal rule rather than case-by-case policy judgments. “A constitutional guarantee subject to future judges’ assessments of its usefulness is no constitutional guarantee at all.” *District of Columbia v. Heller*, 554 U. S. 570, 634 (2008)

At common law, the parent-child relationship was governed by a clear and bound structure. Parents possessed primary authority over the care, custody, and upbringing of their children, and the State’s role under its *parens patriae* power was limited, conditional, and defined. State intervention was not based on a general interest in the welfare of all children but was triggered only upon the satisfaction of specific legal conditions—such as unfitness, abandonment, or harm. That authority was exercised through established legal standards, not through open-ended judicial discretion. The State did not possess a free-floating power to determine what arrangement would be “better” for a child; its authority arose only when a legally recognized deficiency in parental care justified intervention.

This limitation on state authority was implemented through defined legal mechanisms. State intervention occurred through established proceedings—such as guardianship or neglect—each requiring the satisfaction of specific, legally recognized conditions before parental authority could be displaced.

The framework applied below departs from that structure by treating the State’s interest as ongoing and undefined, rather than conditional and triggered. By permitting intervention in

the absence of a defined legal threshold, it transforms a historically limited power into a generalized authority to supervise and restructure the parent-child relationship—an expansion that cannot be reconciled with the constitutional requirement that fundamental rights be governed by defined and historically grounded limits.

As applied through Mass. G.L. c. 208, § 31 (App. 48a), the “Best Interests of the Child” doctrine permits the State to diminish a fit parent’s fundamental rights through case-by-case balancing untethered to any defined legal standard governing when intervention is authorized. Rather than identifying a threshold condition—such as unfitness or harm—the statute, as applied, allows courts to rely on generalized considerations such as “happiness and welfare” and logistical preference. These considerations are not defined by law and impose no objective limit on when the State may override a parent’s authority. In practice, this transforms a conditional and limited *parens patriae* power into a generalized state interest in all children, authorizing intervention not in response to a legal deficiency, but based on a court’s view of what outcome is preferable.

That expansion cannot be reconciled with this Court’s recognition that a fit parent is presumed to act in the best interests of their child, and that the State may not simply substitute its judgment for that of the parent. *Troxel v. Granville*, 530 U. S. 57, 72 (2000). That presumption reflects the historical understanding that the State lacks a competing interest in directing the upbringing of a child where a parent is fit. A framework that permits the State to override a fit parent’s decisions based on generalized policy preferences effectively elevates the State’s interest above that of the parent, converting a limited and conditional power into an ongoing authority to supervise and restructure the parent-child relationship.

The consequences of this framework confirm its constitutional defect. When no defined legal standard governs intervention, materially similar cases produce materially different outcomes. Identical logistical circumstances may be deemed compatible with shared parenting in one case and incompatible in another—not because the governing law has changed, but because the law provides no rule for when such considerations justify diminishing a parent’s rights. In this way, a fundamental liberty becomes contingent on discretionary determinations rather than governed by uniform legal principles.

This case illustrates the problem in its clearest form. The Trial Court expressly found Petitioner to be a “devoted” parent (App. 42a) and “stable and safe” (App. 36a), yet reduced his custodial rights, imposed ongoing conditions on his parenting, and ordered the removal of firearms from his home. These actions were not tied to any defined legal standard governing when intervention is authorized, but instead reflected discretionary judgments made under the “Best Interests” framework as applied through § 31.

The Fourteenth Amendment does not permit such a framework. Where a fundamental right is at stake, the State must act pursuant to defined legal standards—consistent with the Nation’s historical tradition—that constrain discretion and provide objective limits on authority. No expansion of the historical framework is required—only its consistent application. Under that framework, the State’s authority to intervene in the parent-child relationship must be governed by defined legal standards rather than discretionary judgment. Historically, intervention was conditioned on established circumstances such as unfitness, abandonment, or demonstrable harm. While modern law may define those conditions differently, it must do so through objective, articulated standards. The Constitution does not permit the State to override the

decisions of a fit parent based on speculative assessments of potential harm or case-by-case predictions of what might occur.

The constitutional defect is not that the State lacks authority to intervene in the parent-child relationship, but that such authority has historically been conditioned on defined legal triggers—such as unfitness or harm—that are absent here.

Historically, state intervention in the parent-child relationship was not based on speculation or preventative judgment, but on the existence of established conditions such as unfitness, abandonment, or demonstrable harm. The State acted only where such harm was shown under defined circumstances, not on predictions of potential harm or on generalized concerns that substitute the State's judgment for that of a fit parent.

This Court's recent decisions confirm that constitutional rights must be evaluated by reference to the Nation's history and tradition. While the fundamental right of parents to direct the upbringing of their children is deeply rooted in that tradition, the discretionary "Best Interests of the Child" framework—particularly as applied to override the decisions of a fit parent without a defined legal standard—lacks any comparable historical foundation.

This understanding is consistent with the historical limits on state authority. At the Founding and at the time of the Fourteenth Amendment, the parent-child relationship was governed by a presumption of parental authority, with state intervention permitted only upon defined conditions of necessity, such as unfitness, neglect, or incapacity—not open-ended judicial discretion. As Blackstone explained, the power of parents over their children is derived from their duty. 1 William Blackstone, *Commentaries on the Laws of England* 447 (1765). There is no historical tradition from 1791 or 1868 in which a court was authorized to diminish the rights of a fit parent based solely on a discretionary assessment of what arrangement would be

preferable. The framework applied below thus lacks any historical analogue sufficient to justify the intrusion on a fundamental right.

The constitutional defect is not the exercise of state authority, but the absence of any rule defining when that authority may be exercised.

E. THE STATE MAY NOT OVERRIDE A FIT PARENT'S JUDGMENT THROUGH DISCRETIONARY BALANCING UNDER THE GUISE OF LOGISTICS OR EQUITY.

This Court has made clear that the Constitution protects a parent's authority to make decisions concerning the care, custody, and upbringing of their child. Central to that protection is the principle that a fit parent is presumed to act in the best interests of their child, and that the State may not override that judgment based on a mere disagreement about what outcome would be preferable. *Troxel v. Granville*, 530 U. S. 57, 68, 72–73 (2000).

The framework applied below cannot be reconciled with that principle. As applied through Mass. G.L. c. 208, § 31 (App. 48 a), the “Best Interests of the Child” doctrine permits courts to replace a fit parent's decisions with their own assessment of what arrangement is preferable based on generalized considerations such as “happiness and welfare” and logistical convenience. These considerations are not applied through defined legal standards but instead function as vehicles for discretionary judgment. In doing so, the court does not identify a legally sufficient basis for intervention but substitutes its own judgment for that of the parent.

The State may argue that such discretion is necessary to address the practical realities of shared parenting, including logistical concerns such as distance, schooling, and scheduling. That contention does not justify the framework applied here. The Constitution does not prohibit the consideration of such factors. It does, however, require that the circumstances under which those factors justify interference with a fundamental right be defined in law and applied through

objective standards. Logistics may inform the application of a rule, but they cannot replace the rule itself. Where no defined legal standard governs when logistical considerations are sufficient to diminish a parent's rights, those considerations become a mechanism for discretionary balancing indistinguishable from the framework this Court has rejected.

The practical realities of shared parenting do not require standardless discretion. Courts are fully capable of addressing logistical considerations—such as distance, school placement, and scheduling—within defined legal frameworks that preserve parental rights while structuring their exercise. Logistics may inform the application of a rule; they cannot substitute for the rule itself.

This case illustrates the point. The parties resided in close geographic proximity, yet the court reduced Petitioner's custodial rights based on discretionary assessments of "stability" and "continuity," demonstrating that, in the absence of defined legal standards, logistical considerations do not constrain state authority but instead become a vehicle for its expansion.

The Constitution requires more. Where the State seeks to diminish a fundamental liberty, it must do so pursuant to defined legal standards that identify the circumstances under which such interference is authorized. Absent such standards, logistical considerations become a vehicle for the very form of discretionary balancing this Court has rejected, allowing courts to override the decisions of a fit parent without a constitutionally sufficient basis for doing so.

The same defect cannot be cured by characterizing family courts as courts of equity. While courts of equity possess flexibility in crafting remedies, that flexibility does not extend to redefining or diminishing constitutional rights. The Fourteenth Amendment does not permit a fundamental liberty to be treated as an equitable interest subject to ad hoc balancing. Equity may

guide the application of law, but it cannot supply the absence of law where constitutional rights are at stake.

This Court's precedent confirms that the State may not standardize children by imposing its own preferred model of upbringing over that of a parent. The Court has long recognized that the 'liberty of parents and guardians' includes the right 'to direct the upbringing and education of children under their control. As the Court explained, "the child is not the mere creature of the State." *Pierce v. Society of Sisters*, 268 U. S. 510, 534–535 (1925). That principle reflects a foundational constitutional limit: the State may not substitute its own moral, social, or policy preferences for those of a fit parent.

The application of § 31 below violates that principle. By reducing Petitioner's custodial rights and imposing conditions on his parenting despite findings of fitness, the court effectively determined that its preferred arrangement—based on its assessment of logistics and continuity—should prevail over the parent's judgment. That determination was not grounded in any defined legal standard or finding of unfitness but instead reflects a discretionary preference for one parenting structure over another.

Such a framework cannot be sustained under the Fourteenth Amendment. If the State may override a fit parent's decisions based solely on a disagreement about what arrangement would be preferable, then the constitutional protection recognized in *Troxel* is rendered meaningless. The State would possess the authority to restructure the parent-child relationship not in response to harm, but in pursuit of its own view of optimal child-rearing.

The Constitution does not permit that result. The State's authority to intervene in the parent-child relationship is historically limited, conditional, and subordinate to the rights of a fit parent.

Where no finding of unfitness, harm, or other defined legal basis for intervention exists, the State

may not substitute its judgment for that of the parent or diminish the parent's fundamental rights under the guise of logistical necessity or equitable discretion.

This Court should hold that Mass. G.L. c. 208, § 31 (App. 48a), as applied, violates the Fourteenth Amendment to the extent it permits courts to override the decisions of a fit parent through discretionary balancing of "best interests" factors. A fit parent's judgment must be given controlling weight unless and until a constitutionally sufficient basis for intervention is established and applied through defined legal standards.

F. THE APPLICATION OF Mass. G.L. c. 208, § 31 (App. 43a-46a) TO DISARM A FIT PARENT CONFIRMS THAT THE "BEST INTERESTS" FRAMEWORK OPERATES AS A GENERAL DISCRETIONARY OVERRIDE OF CONSTITUTIONAL RIGHTS.

The application of the "Best Interests" framework in this case demonstrates that it operates not as a limited doctrine, but as a general discretionary mechanism capable of overriding independent constitutional rights in the absence of defined legal standards.

These conditions were not imposed pursuant to a defined legal threshold, but as a product of discretionary judgment under the "best interests" framework. The Trial Court simultaneously found Petitioner to be "devoted," and provide a safe and stable home, yet subjected him to ongoing conditions untethered to any finding of harm or danger sufficient to justify such intrusion.

The order to disarm a concededly safe parent—permitted unsupervised access to his child—without any finding of dangerousness confirms that the governing framework operates as a general discretionary mechanism rather than a rule of law.

Where no defined legal standard governs such conditions, the "best interests" doctrine permits the State to extend its authority beyond custodial determinations and into the regulation

of a parent's personal autonomy. In the absence of a defined legal trigger, the exercise of fundamental rights becomes contingent upon discretionary judgment rather than governed by law.

The Trial Court's order requiring the removal of all firearms and ammunition from Petitioner's home illustrates this expansion. The court made no finding of dangerousness, no finding of criminal conduct, and no determination that Petitioner posed a threat to the child or to others. Instead, the disarmament order was based solely on generalized concerns regarding the presence of firearms in a household with a child.

This Court has rejected that mode of constitutional decision-making. In *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 24 (2022), the Court held that the government may not restrict a constitutional right through open-ended balancing but must instead demonstrate that its action is consistent with the Nation's historical tradition of regulation. The Court made clear that constitutional rights are not subject to case-by-case determinations of whether they are 'worth insisting upon,' *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022), but must be grounded in this Nation's history and tradition.

The disarmament order below cannot be reconciled with that standard. There is no historical tradition of disarming individuals based on generalized concerns absent a finding of dangerousness or another defined legal trigger. Nor does Mass. G.L. c. 208, § 31 (App. 48a) provide any objective standard governing when a parent's Second Amendment rights may be diminished.

The Appeals Court declined to address the Second Amendment issue on the ground of waiver. That procedural determination does not affect the question presented here. The decision

below demonstrates that, under the governing framework, a court may restrict a fundamental right without identifying any defined legal standard governing when such action is authorized.

This use of the “Best Interests” framework confirms the broader defect identified above. When a doctrine lacks defined legal standards governing its application, it does not remain confined to its original purpose. Instead, it expands, allowing courts to apply discretionary balancing wherever they perceive a policy justification. In this case, that expansion resulted not only in the reduction of parental rights, but in the deprivation of a separate constitutional guarantee without any defined legal basis.

The Constitution does not permit the exercise of governmental power in a manner that is arbitrary or standardless. “The very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to his enjoyment of life, at the mere will of another, seems intolerable in any country where freedom prevails”, *Yick Wo v. Hopkins*, 118 U. S. 356, 366–370 (1886). This case demonstrates the constitutional consequence of that defect: absent a governing legal rule, the “Best Interests of the Child” framework functions as a general discretionary mechanism through which constitutional rights may be overridden.

The application of the “Best Interests of the Child” framework in this context underscores a broader constitutional concern. Where discretionary doctrine permits the restriction of a fundamental right without a defined legal standard, it creates a pathway by which constitutional protections may be diminished outside the framework this Court has required.

If such an approach may be used to limit one fundamental right, it raises whether the same reasoning may be extended to others, notwithstanding this Court’s instruction in *New York State Rifle & Pistol Association v. Bruen*, 597 U. S. 1, 23 (2022) that constitutional rights must be governed by defined, historically grounded limits rather than case-by-case balancing.

No constitutional right is secure if it may be diminished through discretionary "best interests" determinations unconstrained by defined legal standards.

G. REBUTTAL TO STATE CLAIMS OF DOMESTIC DISCRETION

The State will contend that domestic relations are the exclusive province of the states, or that the "best interests" standard provides a sufficient basis for judicial intervention. Both arguments are constitutionally foreclosed by this Court's precedent.

i. State Sovereignty Does Not Outrank the Fourteenth Amendment

While states traditionally oversee family law, they do not possess a "license to ignore the Constitution." This Court has explicitly instructed that while states traditionally regulate domestic relations, that authority remains subject to constitutional limitations. *M.L.B. v. S.L.J.*, 519 U. S. 102, 116 (1996) State court "discretion" is not a shield for standards that infringe upon fundamental rights; rather, all state domestic schemes are subject to the strictures of the Fourteenth Amendment. *See Palmore v. Sidoti*, 466 U. S. 429, 432–433 (1984).

ii. The "Best Interests" Standard is a Void-for-Vagueness Trap

The State's reliance on "best interests" as a substitute for a defined legal threshold fails the requirement of Due Process. This Court has recognized the indeterminate nature of such standards. *Smith v. Organization of Foster Families*, 431 U. S. 816, 848 (1977), rendering it incapable of providing the "minimal guidelines" required to govern state interference with a fundamental right.

When a standard lacks objective criteria, it violates the first essential of due process by permitting a 'standardless sweep' that allows a judge to 'pursue [their] personal predilections.' *Kolender v. Lawson*, 461 U. S. 352, 358 (1983). In the case below, the court engaged in such a sweep by relying on subjective assessments of a parent's stability and lifestyle, factors that are

neither defined by statute nor constrained by objective benchmarks. Such ambiguous factors are not legal standards; they are subjective value judgments that allow the State to diminish the rights of a fit parent without ever meeting a defined burden of proof.

Because the "best interests" of a child are constitutionally presumed to be served by the fit parent, *Troxel v. Granville*, 530 U. S. 57, 69 (2000), any regime that allows the State to override that presumption based on ad hoc, discretionary balancing is unconstitutional on its face. The Fourteenth Amendment protects liberty through law, not through the "standardless discretion" of state officials. *Yick Wo v. Hopkins*, 118 U. S. 356, 366–370 (1886).

iii. Diminishing Rights Are Needed for Logistical Concerns

The State may contend that parenting-time determinations merely address logistical realities and do not diminish constitutional rights. That characterization fails as a matter of law. The Fourteenth Amendment does not permit a State to deprive a person of liberty without due process of law, and this Court has long recognized that the care, custody, and control of one's child is a protected liberty interest. Where both parents are concededly fit, reducing one parent's time or stripping that parent of decision-making authority is not a neutral logistical adjustment; it is an exercise of state power over a fundamental right. The Constitution does not forbid courts from addressing practical realities such as distance or scheduling. It does, however, require that the circumstances under which those realities justify diminishing a fit parent's rights be governed by defined legal standards. Logistics may inform how parental rights are exercised, but they cannot serve as a standardless basis for reducing those rights without due process of law.

iv. The Failure of the State's Equitable Defense

The State may argue that the discretionary framework applied below reflects the traditional role of courts of equity in resolving domestic disputes. That argument fails. While

courts of equity possess flexibility in crafting remedies, that flexibility does not extend to redefining or diminishing fundamental constitutional rights. The Fourteenth Amendment does not permit a protected liberty interest to be treated as an equitable interest subject to ad hoc balancing. As this Court held in *Troxel v. Granville*, 530 U. S. 57, 67 (2000), the best interests standard cannot serve as a “breathtakingly broad” license for the State to override the decisions of a fit parent.

Where fundamental rights are at stake, the Constitution requires defined legal standards that constrain the exercise of state power. The absence of such standards here permits the State to resolve competing claims through discretionary judgment rather than the application of law. Equity may guide the application of a rule; it cannot replace the rule itself. To allow a judge’s discretionary judgment to supersede a defined liberty interest would abandon the foundational principle that we are “a government of laws, and not of men.” *Marbury v. Madison*, 5 U. S. 137, 163 (1803).

Nor may the State rely on the equality of the parties as a basis for diminishing their shared constitutional rights. When two concededly fit parents stand before a court, their equality is a reason for the State to exercise restraint—not a justification for the State to allocate their liberty as if it were a divisible asset. The Constitution does not permit a framework in which the existence of equal rights becomes the basis for subordinating both to discretionary state control. That limitation is consistent with the historical understanding of the State’s role. At common law and through the ratification of the Fourteenth Amendment, state intervention in the parent-child relationship was conditional and triggered—arising in circumstances such as unfitness, neglect, or incapacity—not as a general authority to equitably allocate parental rights between two concededly fit parents. While modern custody disputes often arise in the context of divorce, that

development does not expand the constitutional scope of state power. The absence of a historical tradition authorizing the State to diminish the rights of fit parents through discretionary allocation confirms that such authority must be governed by defined legal standards, not created through equitable balancing. Whatever deference is afforded to state courts in domestic relations, it does not extend to the use of standardless discretion to diminish fundamental rights.

VII. CONCLUSION

This case presents a clean and direct vehicle for this Court to resolve a question it has not yet answered: what constitutional standard governs when a State may diminish the fundamental rights of a concededly fit parent.

The decision below applied the “best interests of the child” framework without identifying any defined legal rule governing when such intervention is authorized. When a standard permits “virtually complete discretion,” it fails to satisfy the requirements of the Due Process Clause. *Kolender v. Lawson*, 461 U. S. 352, 358 (1983). The Trial Court’s own findings establish that Petitioner is a fit parent—providing a safe and stable home, demonstrating devotion, maintaining two years of sobriety, and never requiring supervised visitation—yet his rights were diminished notwithstanding those findings, without any governing legal standard, without a finding of unfitness, and with zero findings of neglect, abuse, or abandonment.

This case does not require the Court to revisit disputed facts or reassess the Trial Court’s concerns. Accepting those findings in full, the constitutional question remains: what rule determines when the State may override the rights of a fit parent? The decision below supplies none.

The Constitution does not permit standardless discretion over fundamental rights. The Fourteenth Amendment protects liberty through law, not through ad hoc judgment or open-ended

balancing. Due process requires legal standards that constrain the exercise of state power and guard against arbitrary interference with fundamental rights. *Troxel v. Granville*, 530 U. S. 57, 72–73 (2000); *Grayned v. City of Rockford*, 408 U. S. 104, 108–09 (1972); *Yick Wo v. Hopkins*, 118 U. S. 356, 366–70 (1886). This Court’s recent decisions confirm the same principle: where fundamental rights are at stake, the Constitution requires defined legal standards grounded in history and tradition, not open-ended balancing or discretionary judgment. *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U. S. 1, 24 (2022); *Dobbs v. Jackson Women’s Health Org.*, 597 U. S. 215, 231, 237 (2022).

There is no constitutional basis for treating parental rights differently, and no historical tradition permitting the State to diminish the rights of a fit parent through discretionary standards untethered to defined legal thresholds. A regime that permits the State to restructure the parent-child relationship without a defined legal trigger—such as a finding of unfitness or harm—does not operate as a rule of law, but as the very essence of arbitrary power this Court’s history and tradition require be restrained.

The judgment below illustrates the consequences of such a framework. The Trial Court imposed a comprehensive regulatory regime governing nearly every aspect of the Father’s life—stripping legal custody, mandating continuous monitoring and compelled participation in programs, restricting communication and movement, imposing financial burdens tied to the exercise of parental rights, and ordering the removal of firearms without a finding of dangerousness—all upon a parent the court itself found to be safe, stable, and fit. These were not narrowly tailored remedies tied to harm; they were categorical controls imposed in the absence of any constitutionally sufficient justification.

The “best interests” framework applied below fails the Constitution in every dimension—as a standardless sweep that violates due process, as a regime that permits unequal treatment of similarly situated fit parents, and as a discretionary override that nullifies fundamental rights. By allowing the State to diminish the rights of a concededly fit parent without a defined legal rule, the doctrine transforms constitutional guarantees into matters of judicial preference.

There is a distinct historical irony in the framework applied below. The constitutional system was not only built on the premise of limited state authority over the family, but was created by individuals who themselves lived under a legal structure in which parental authority was primary and state intrusion was conditional. That structure did not reflect a theory to be replaced, but a legal order in which the State lacked general authority to supervise the decisions of a fit parent.

Nothing in the Constitution indicates that this limitation on state authority over the family was meant to be displaced. To the contrary, this Court’s precedent confirms that the parent-child relationship remains a protected sphere in which the State may not substitute its judgment for that of a fit parent absent a constitutionally sufficient basis. See *Troxel v. Granville*, 530 U. S. 57, 68–69 (2000); *Pierce v. Society of Sisters*, 268 U. S. 510, 534–35 (1925).

Yet the framework applied below permits precisely that intrusion. What was once a system designed to restrain government intrusion into the family—created by Founders who themselves lived under a legal order that enforced that restraint—has, in this context, been transformed into one that permits it.

Any concern that requiring objective legal standards would create disruption, administrative difficulty, or inconvenience within family court systems is constitutionally

irrelevant. This Court has long rejected the notion that the vindication of fundamental rights may be subordinated to considerations of efficiency or ease.

As this Court held in *Watson v. City of Memphis*, the enforcement of constitutional guarantees “cannot be made dependent upon any theory that it is less expensive” or more convenient to deny them, *Watson v. City of Memphis* 373 U. S. 526, 537 (1963). Fundamental rights are not subject to balancing against institutional preference or logistical burden. If the “best interests” framework cannot operate within the constraints of defined constitutional limits, the remedy is not to preserve the framework at the expense of those rights, but to require that it conform to the Constitution.

This case therefore presents a question of exceptional national importance: whether a State may impose sweeping, life-altering restrictions on a parent it has affirmatively found to be fit—without a finding of unfitness, without proof of harm, and without any limiting standard. If such authority is permitted, then the Fourteenth Amendment ceases to function as a constraint on state power and instead becomes subordinate to it.

Because the Constitution does not permit fundamental rights to be governed by standardless discretion, the petition for a writ of certiorari should be granted.

Because the current framework denies a uniform constitutional rule to the millions of parents and children whose inalienable rights are governed by discretionary judgment rather than the rule of law, the petition for a writ of certiorari **MUST** be granted.

Respectfully Submitted,

Brian M McCarthy



Date

6/17/24