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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

ANGELA A. GARCIA-LEIJA,

Petitioner,

v.

FLAVIO FAUSTINO LEIJA,

Respondent.

No. _____

On Petition for a Writ of Certiorari to the

Supreme Court of the State of Washington

PETITION FOR A WRIT OF CERTIORARI

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Petition Filed: April 21, 2026

QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment's guarantee of parental liberty, as recognized in Troxel v. Granville, 530 U.S. 57 (2000), requires that a parent receive meaningful notice and a genuine opportunity to be heard before a court may impose a complete no-contact order severing all parent-child contact for an indefinite period - where the record affirmatively shows the parent was never lawfully served with the modification petition, appeared at the hearing and stated she had not received or read the moving papers, and the trial court itself acknowledged she needed a further opportunity to respond.

2. Whether a state court violates the Fourteenth Amendment's Due Process Clause by finding "waiver" of a constitutional objection - and affirming imposition of a court-access restriction barring a parent from filing any court document - where the finding of waiver rests on the parent's failure to file a written response to a motion she was never lawfully served with, and where the parent appeared at the hearing and objected to proceeding, in part, due to procedural defects.

3. Whether a state may apply a domestic violence abusive litigation statute - enacted to protect domestic violence victims from abusive litigation by perpetrators (RCW 26.51.010) - against a petitioner who herself obtained a domestic violence protection order as a victim, thereby imposing a permanent court-access restriction that bars the victim from seeking judicial remedies, in violation of the First and Fourteenth Amendments.

4. Whether the Due Process Clause of the Fourteenth Amendment permits adjudication of parental rights by a judge who (a) disclosed "huge bias" against the petitioner and a "lens so skewed over the duration of this case" in open court; (b) stated in October 2021 that the petitioner was "on your way to never seeing your kids again," then - when the petitioner

confirmed that prediction on the record in September 2023 - responded "Well, good"; (c) pre-coordinated with opposing counsel both the scheduling and the outcome of the modification proceeding that removed the petitioner's children; and (d) imposed a permanent filing restriction against an unrepresented domestic violence victim - and where the appellate courts held this documented pattern did not constitute a "showing of bias" requiring reversal.

5. Whether a state appellate court may invoke the mootness doctrine to avoid reviewing the ex parte, same-day quashing of a domestic violence protection order - on the ground that the temporary DVPO would have expired by its own terms - where (a) a temporary DVPO always expires by its terms and the court's rule therefore categorically immunizes all DVPO quashings from appellate review, defeating the "capable of repetition yet evading review" exception; (b) the custody consequences of the quashing order persisted for years and were never moot; and (c) the state actor whose conduct is challenged caused the alleged mootness by quashing the order in the first place.

PARTIES TO THE PROCEEDING

Petitioner Angela A. Garcia-Leija was Appellant/Petitioner in all proceedings below. Respondent Flavio Faustino Leija was Respondent in all proceedings below.

RELATED PROCEEDINGS

The following proceedings are pending in the Washington Court of Appeals, Division II, and arise from the same family-law and domestic-violence cases that generated the orders reviewed in this Petition:

Garcia-Leija v. Leija, No. 61344-1-II (Wash. Ct. App.) - appeal of the November 12, 2025 orders in Clark County Cause No. 19-3-01618-06 and the December 5, 2025 Order Granting Attorney Fees of $32,000. Opening Brief filed April 15, 2026.

Garcia-Leija v. Leija, No. 60807-3-II (Wash. Ct. App.) - consolidated appeal of five April 8, 2025 orders, including FL Sub 651, the Amended Order on Motion to Restrict Abusive Litigation. FL Sub 651 is the direct successor to FL Sub 562 (the abusive litigation order at issue in Questions 2 and 3 of this Petition): every substantive finding in FL Sub 651 - relationship, domestic violence, abusive litigation, proof of abusive litigation - states only "Pursuant to order dated November 8, 2023," making FL Sub 651 entirely derivative of FL Sub 562 with no independent findings of its own. By Commissioner Bearse's July 24, 2025 record-transfer ruling in No. 60807-3-II, the full record of No. 58824-2-II (consolidated with No. 59547-8-II) - the proceedings reviewed in this Petition - was transferred into and is now part of the record in No. 60807-3-II. Opening Brief filed April 2, 2026. Consolidated with Nos. 60814-6-II, 60817-1-II, 60824-3-II, and 60827-8-II.

These related proceedings present overlapping constitutional questions and arise from the same systemic pattern of due process violations challenged in this Petition.

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OPINIONS AND ORDERS BELOW

The unpublished opinion of the Washington Court of Appeals, Division II, filed July 29, 2025, in No. 58824-2-II (consolidated with No. 59547-8-II), is reproduced in Appendix A. The Washington Supreme Court's order dismissing Petitioner's petition for review as untimely, entered February 4, 2026, in No. 1045069, signed by Chief Justice Stephens for Department I, is reproduced in Appendix B. The trial court's Order Restricting Abusive Litigation (FL Sub 562) is reproduced in Appendix C. The trial court's October 11, 2023 Order for No Contact is reproduced in Appendix D. The three trial court orders quashing and terminating the temporary Domestic Violence Protection Order (August 30, August 31, and September 13, 2023) are reproduced in Appendix E. The August 28, 2023 Temporary Domestic Violence Protection Order granted by Judge Suzan Clark - the order whose subsequent ex parte quashing is the subject of Question 5 - is reproduced in Appendix F. Constitutional and statutory provisions involved are reproduced in Appendix G.

JURISDICTION

The Washington Supreme Court entered its order on February 4, 2026, in No. 1045069, dismissing Petitioner's petition for review and all pending motions as untimely. App. B. This Court has jurisdiction under 28 U.S.C. § 1257(a), which confers jurisdiction to review "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had" where a federal constitutional right is at issue. The Washington Supreme Court's dismissal is the final disposition of Petitioner's case by the highest court of Washington; no state-court forum remains available to address the constitutional questions presented.

The untimeliness of Petitioner's state-court petition is not an independent and adequate state ground barring this Court's review. The untimeliness was itself a direct product of the same unconstitutional conditions this Petition challenges: the November 8, 2023 Order Restricting Abusive Litigation (FL Sub 562, App. C) required Petitioner to obtain judicial pre-approval before submitting any court filing. This structural restriction operated as a direct cause of the missed appellate deadline in three documented ways. First, the pre-approval requirement imposed mandatory procedural delay before any filing could be submitted to any court - including the Washington Supreme Court. Second, the pre-approval gate remained under the control of the presiding judge whose conduct this Petition challenges, creating an irreconcilable conflict between the constitutional obligation of access to courts and the judicially-imposed barrier to exercising it. Third, when the Court of Appeals issued its opinion on July 29, 2025, the pre-approval constraint prevented immediate filing; Petitioner was required first to seek pre-approval, then file an extension motion (filed August 28, 2025), and only then file the substantive petition (filed October 31, 2025) - a multi-step sequence the restriction made unavoidable and that the Washington Supreme Court then used as the ground for dismissal. Where a state procedural default is caused by the constitutional violation at issue, it does not constitute an independent and adequate state ground barring federal review. See Henry v. Mississippi, 379 U.S. 443, 447–48 (1965).

Coleman v. Thompson, 501 U.S. 722 (1991), is not to the contrary. Coleman arose in federal habeas corpus proceedings and addressed whether inadvertent attorney error could constitute "cause" to excuse a procedural default in the collateral review context - a context governed by comity and federalism concerns that do not apply to direct review of state court decisions under § 1257(a). This Petition is a direct review petition, not a habeas proceeding. The independent-and-

adequate-state-ground doctrine for direct review is governed by Henry v. Mississippi: a state procedural rule is neither independent nor adequate when it is itself the product of the constitutional violation being challenged. Here, the abusive litigation restriction that produced the untimeliness was not a neutral procedural rule enforced by an independent tribunal. It was the order of the same judge whose conduct this Petition challenges, and the untimeliness it caused is the precise subject of Questions 2 and 4.

This Petition is timely filed within 90 days of the February 4, 2026 order. See Sup. Ct. R. 13.1. Deadline: May 5, 2026.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1: "No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Const. amend. I: "Congress shall make no law . . . abridging . . . the right of the people . . . to petition the Government for a redress of grievances."

RCW 26.51.010 (Washington Abusive Litigation Act), enacted to protect domestic violence victims from abusive litigation by perpetrators, authorizes courts to restrict "abusive" litigation after finding a party "is starting, advancing, or continuing court actions primarily for the purpose of harassing, intimidating, or maintaining contact with the moving party."

RCW 7.105 (Washington Domestic Violence Protection Order Act), enacted to provide protection to victims of domestic violence. Full text of these provisions is reproduced in Appendix G.

STATEMENT OF THE CASE

A. The Custody Dispute and Its Origins

Petitioner Angela A. Garcia-Leija and Respondent Flavio Faustino Leija were married for more than two decades. Their dissolution proceeding commenced in Clark County Superior Court, Washington, in August 2019 (Cause No. 19-3-01618-06). The parties have two minor children, C.L. (born April 2013) and E.L. (born December 2014).

Throughout the dissolution proceedings, Petitioner raised allegations of domestic violence, coercive control, and child endangerment, which were supported by YWCA SafeChoice Advocates of Clark County, medical documentation, and expert testimony. Dr. Daniel J. Rybicki testified that the GAL investigation contained a "complete failure to hold observations of parent-child interaction" and that the case had not been "adequately investigated in terms of an overall family systemic issue." COA 574870 RP 591, lines 1–17 (August 25, 2021 Trial). When Dr. Rybicki attempted to elaborate on the investigation failures, Respondent's attorney Petersen objected and Judge Banfield sustained the objection - cutting off expert testimony about investigation deficiencies at a trial at which those deficiencies were directly at issue.

Dr. Steve Tutty testified that C.L. and E.L. required counseling and that the court should order a forensic sexual assault evaluation at Harborview Sexual Assault and Trauma Center in Seattle. COA 574870 RP 767 (August 25, 2021 Trial). At the October 22, 2021 Decision Hearing, Judge Banfield initially ordered the Harborview evaluation, allocating costs 70% to Petitioner and 30% to Respondent, and assigned Respondent - not Petitioner - to arrange transport. COA 574870 RP

1003. When Petitioner then expressed concern on the record that Respondent's control of the transport would compromise the evaluation's independence, Banfield cancelled the court-ordered evaluation entirely at the same hearing, within minutes of ordering it: "If you think Mr. Leija, just because he's gonna take them up to Harborview, that it's gonna be an influence, then I don't think we should spend the money and waste our money on doing this Harborview thing." COA 574870 RP 1015–1016. C.L. and E.L. were never evaluated at Harborview Sexual Assault and Trauma Center. No substitute forensic evaluation of the children was ever ordered. A court-ordered forensic sexual assault evaluation - recommended by the expert witness and ordered by the presiding judge - was cancelled because the protective parent raised a legitimate concern about the abusive parent's control over the process. That is not a procedural ruling. It is the documented moment at which the children's own right to forensic evaluation was sacrificed to protect Respondent's sole control of the process.

The court-appointed forensic accountant, Tiffany R. Couch, CPA/CFF, CFE (Acuity Forensics), testified in a sworn Declaration filed May 9, 2022, that Respondent had thousands of dollars in unexplained cash transactions he "could not remember" explaining. Petersen contacted Ms. Couch secretly - calling her three or more times outside Petitioner's presence - and described Petitioner as "crazy" while privately characterizing her as a "phenomenal" investor. On April 22, 2022, Judge Banfield entered a financial restraining order freezing all but three of Petitioner's twenty-six financial accounts - sparing only three accounts that held little to no funds - while simultaneously characterizing her from the bench as "this woman who has made no money on her own this entire time." COA 574870 RP 1127, lines 20–23. Petitioner had managed those twenty-six accounts as founder of AGL Investments, the family's primary wealth management enterprise. The freeze eliminated not only her legal defense resources but her access to money

for basic needs - depriving her of funds for daily living while Respondent earned approximately $20,000 per month - simultaneously dismantling her business and her capacity to retain attorneys. Court-appointed forensic accountant Tiffany R. Couch, CPA/CFF/CFE, confirmed under oath on May 9, 2022 that AGL Investments had grown the parties' combined investment accounts by nearly $500,000 in a single year - a sworn finding on the same certified record as Judge Banfield's bench characterization of Petitioner as "this woman who has made no money on her own this entire time." COA 574870 RP 1127, lines 20–23. The gap between the forensic record and the bench statement is not a matter of interpretation; it is a documented, irreconcilable contradiction between what a court-appointed expert testified and what the presiding judge simultaneously declared. The operative October 30, 2019 parenting plan granted Petitioner substantial residential time. Petitioner testified she last had her children on January 8, 2021, when Respondent did not return them on the scheduled exchange date. VRP, June 2, 2025, pp. 265–266.

B. The January 2021 Custody Deprivation: Void Orders, "NO LEI," and Pre-Planned Emergency Papers

Respondent did not obtain de facto sole custody through any lawful parenting-plan modification under RCW 26.09.260. He had the children because on January 8, 2021, he did not return them on the scheduled exchange date, and then obtained a series of restraining orders - all drafted by his attorney - served on Petitioner only by email, and containing service-waiver certifications that were false on their face.

All four January–February 2021 restraining orders bore a handwritten "NO LEI" notation on the filed copy, confirming that no Law Enforcement Information Sheet was filed and that none of the four orders was entered into the WACIC state law enforcement database - the database that

governs which orders Washington law enforcement may enforce. The court's own directives on each order required WACIC registration within one court day. Despite the complete absence of WACIC registration, Clark County, Camas, and Vancouver law enforcement cited these orders to threaten Petitioner with arrest whenever she attempted to exercise her rights under the registered, operative October 30, 2019 parenting plan - as recently as April 18, 2025. VRP Vol. VI [06/02/2025], p. 75. An order that does not legally exist in the enforcement database cannot constitute a lawful basis for depriving a parent of court-ordered parenting time.

Moreover, the January 4, 2021 ex parte order was not a genuine emergency filing. Respondent's attorney Nathan H. Petersen's own signature on the document is dated "December 4, 2020," with the word "January" handwritten over a crossed-out "December" - establishing the order was prepared weeks before filing. No finding of substantial change of circumstances under RCW 26.09.260 was made. On February 25, 2021, Petersen alone prepared and presented a reissuance converting the temporary order to permanent: the children would remain with Respondent "until terminated by the court." Appellant received it by email while self-represented, without any email-service agreement on file.

Judge Banfield herself acknowledged on October 11, 2023 that email service had always been legally insufficient: "Personal service is required ... you cannot be served via email ... the punishment in contempt can go up to jail. And so, you have to have personal service. That is the rule." VRP, Oct. 11, 2023, p. 77. She took no retroactive action regarding the defectively served 2021 orders being enforced in her case.

The service defect is not a matter of inference. The certified email record - 289 pages of correspondence between Petersen's legal assistant Brittany Gray and Commissioner Schienberg's judicial assistant Rebecca Wittenborn - documents that the January–February 2021 orders were

issued through a private ex parte channel. Gray submitted proposed orders to Wittenborn by email; Wittenborn confirmed each was signed within hours - the February 10 Re-Issuance in 54 minutes, the February 25 Re-Issuance in 16 minutes. When Petitioner attempted to use the same channel to submit her own responses, Wittenborn replied: "This type of presentment is unacceptable and Commissioner will not see this." The channel used to issue the orders against Petitioner was closed to Petitioner. On February 10, 2021, the restraining order extension was already being signed by email while the hearing was still in progress. When Petitioner emailed Wittenborn asking how to object, she was told she should have objected at the hearing. Petitioner's response, preserved in the documentary record: "I tried and wasn't allowed to." The February 25, 2021 permanent reissuance - signed in 16 minutes by the same channel, two days before the only documented service attempt - was entered in the NCIC federal law enforcement database with an expiration date of February 25, 2099, making it functionally permanent in the federal system while simultaneously bearing the "NO LEI" notation confirming it was never in WACIC.

At the June 2, 2025 trial, Respondent confirmed under questioning that contact with Petitioner's children was "100 percent in your power" - meaning Respondent, not any court order, controlled whether Petitioner had access to C.L. and E.L. VRP Vol. VI [06/02/2025], p. 202. Petitioner had zero to one percent contact time with her children across five years. Id., pp. 265–266. Her last contact with C.L. and E.L. was August 12, 2023.

C. The DVPO and the August 30, 2023 VPD Log Sequence

On August 28, 2023, a neutral judge, Judge Suzan Clark, granted Petitioner an ex parte temporary DVPO in Case No. 23-2-08698-06, awarded Petitioner temporary custody of C.L. and E.L. based on a finding of imminent risk of harm, and granted Petitioner's YWCA SafeChoice-

supported request for a psychosexual evaluation of Respondent. App. F. Respondent was never required to complete that evaluation - or any evaluation - at any point in these proceedings.

The certified VPD Civil Protection Order Service Log for Case No. 23-2-08698-06 documents the precise sequence of events on August 30, 2023 that explains how the DVPO was extinguished before service was completed. At 15:45, VPD Officer C. Santos (PSN 1841) attempted personal service of the DVPO at Respondent's address; no one answered the door. Earlier that same day, Sgt. John Schultz (PSN 1332) had made telephonic contact with Respondent and recorded in his own handwriting on the VPD log:

"MADE TELEPHONIC CONTACT W/ RESPONDENT. ADVISED OF THE ORDER BUT NOT SPECIFICS. MAKING ARRANGEMENTS TO MEET & SERVE." VPD Civil Protection Order Service Log, Case No. 23-2-08698-06 (Aug. 30, 2023).

At 15:58:23 - thirteen minutes after Officer Santos's failed service attempt at the door - Judge Banfield digitally signed the Order Quashing Temporary Protection Order, which had been presented solely by Petersen. The quash was e-filed at 16:04. On August 31, Schultz closed the service log: "NOTIFIED ORDER WAS QUASHED BY JUDGE BANFIELD." The Return of Service filed that day confirms personal service was never completed - the only stated reason: "IF ORDER WAS QUASHED." By the time Officer Santos attempted the door at 15:45, Sgt. Schultz had already telephonically notified Respondent that the order existed. Respondent was therefore aware of the DVPO and in contact with his attorney before the quash was signed. A second quashing order was entered August 31, 2023, at 9:11 a.m. App. E.

Independent corroboration of the coordination came six weeks before the YWCA petition was even filed. On June 29, 2023 - five days before Dr. Ellis issued the Emergency Binding Recommendations that would become the predicate for complete no-contact - VPD Officer Bean

told Petitioner directly that "Mr. Leija and the judge were working with the PC to remove Ms. Garcia-Leija's parenting altogether." Notice of Disqualification, COA No. 588242, p. 61. A named law enforcement officer independently corroborated judicial-executive coordination before the YWCA petition was filed.

The coordination on August 30, 2023 extended beyond the judicial-executive channel. Officer Andrea Bauman - who had responded on August 12, 2023 to Respondent's call to Beacocks Music piano camp (Case No. 2023-018251), found Petitioner peacefully with her daughter, and confirmed police do not enforce civil parenting plans - retroactively added a protection order violation offense (RCW 7.105.450) to that 18-day-old case on August 30, 2023. The original August 16 report bore no offense. The retroactive addition occurred in the same 48-hour window as: Sgt. Schultz's telephonic tip to Respondent; Petersen's emails requesting the DVPO quash; Banfield's signing of the quash order; and Bauman simultaneously opening a separate child abuse case (No. 2023-019909) based on Petitioner's own report of abuse. A law enforcement officer retroactively converted a civil dispute call into a criminal protection order violation case against Petitioner on the same day Petitioner's only protective order was quashed.

D. Pre-Filing Judicial Coordination: The September 13, 2023 Hearing

Nine days before Respondent filed the adequate cause and modification petition on September 22, 2023, Judge Banfield conducted a hearing on September 13, 2023, at which two things happened simultaneously: she pre-coordinated the filing and outcome of Respondent's unfiled adequate cause petition with his attorney; and she entered the third and final order terminating the DVPO that had been protecting Petitioner and her children. App. E.

At that hearing, Respondent's attorney signaled he was "very close to filing the petition to change the parenting plan" and requested a date "20 days out" to ensure service. VRP, Sept. 13, 2023, p.

42. Judge Banfield immediately scheduled an adequate cause hearing for October 11, 2023 - before the petition existed - and in the same breath pre-determined its central factual question, stating that a significant change of circumstances was "probably pretty clear here" and "obviously" present. VRP, Sept. 13, 2023, pp. 44–45.

At the same September 13 hearing, Banfield entered a signed written order in Case No. 23-2-08698-06 adopting Dr. Ellis's Emergency Binding Recommendations "IN FULL" and directing: "NOTICE IS NOT TO SEE OR CONTACT CHILDREN OUTSIDE SUPERVISION." Order Terminating Protection Order, No. 23-2-08698-06 (Sept. 13, 2023). The constitutional significance of this order's case number cannot be overstated. Every prior restraining order against Petitioner had been filed in the family law case, No. 19-3-01618-06. When Petitioner obtained a DVPO as a victim in the separate domestic violence case, No. 23-2-08698-06 - a case in which she was the protected party, not the restrained party - Judge Banfield transferred that DV case to herself, quashed the DVPO, and then used Petitioner's own domestic violence case to enter yet another no-contact order against her. That September 13 DV case order is not a distinct constitutional violation separate from the restraining order chain. It is the same chain, extended into a new case number. From January 2021 forward, each restraining order, each no-contact order, each case-closing order, and each iteration of the abusive litigation restriction constitutes one more step in a single unbroken series of orders separating Petitioner from her children - each entered through a different procedural vehicle but each producing the same outcome Judge Banfield predicted from the bench in October 2021. The October 11, 2023 no-contact order was not a first determination. It was the latest step in a continuous course of judicial conduct that began with the January 4, 2021 ex parte restraining order and has never reversed direction.

Petitioner addressed Judge Banfield directly on the September 13 record, stating she believed Banfield had predicted in 2021 she would never see her children again and that Banfield was "involved in that mission." VRP, Sept. 13, 2023, p. 19, lines 10–17. Judge Banfield's response: "Well, good. Then that will help you to have a different judicial officer." VRP, Sept. 13, 2023, p. 19, lines 18–19. "Well, good" is not a denial. It is an affirmation - in open court, on the certified record - that Judge Banfield was aware Petitioner believed Banfield had predicted she would never see her children again, and Banfield's response was to express satisfaction.

E. The Hearing Without Lawful Service

On approximately September 22, 2023, Respondent filed a motion for adequate cause and petition to modify the parenting plan. The petition was procedurally defective at the threshold: RCW 26.09.260 provides a mechanism for a parent to petition to modify a parenting plan. It does not authorize a parent who has already obtained de facto exclusive custody through unlawful withholding - and maintained it for two and a half years through void, fraudulently served restraining orders - to seek judicial ratification of what he has already taken by force. Respondent was not petitioning to modify the October 30, 2019 parenting plan. He was petitioning to transform an unlawful arrangement into a lawful one. A modification statute cannot be weaponized to ratify custody that was never lawfully obtained. For three years preceding this filing, Respondent's attorney had served Petitioner - an unrepresented pro se party - by email, a method the trial court later confirmed was constitutionally inadequate for proceedings carrying incarceration risk.

An adequate cause hearing was held before Judge Banfield on October 11, 2023. At the outset, Petitioner stated she had not received, read, or had an opportunity to respond to the modification

paperwork. Despite this, the hearing proceeded. At the same hearing, the trial court acknowledged the deficiency:

"Ms. Leija Garcia does not feel that she had an opportunity to review the paperwork to respond appropriately to that. This Court wants to make sure that we all understand each other. I will schedule another hearing for your response." VRP, October 11, 2023, p. 146.

No meaningful follow-up hearing occurred before the no-contact order became permanent. The trial court entered a complete no-contact order at the conclusion of the October 11 hearing: "Ms. Leija Garcia, you are to have absolutely no contact, not phone, not physical contact with your children at all. Not supervised contact. There will be no contact with the children." VRP, October 11, 2023, p. 146.

The trial court-appointed evaluator, Dr. Tamara Barsion-Ellis, admitted under oath at the October 11, 2023 hearing that she had not spoken to the children, had not visited Petitioner's home, and had conducted all her clinical work through one-sided communications with Petersen and a father-aligned therapist Breanna Fischer, LMHC - before issuing the recommendations that severed all parental contact. VRP, Oct. 11, 2023, pp. 138–139. The clinical pipeline was directed by Parenting Coordinator Dr. Christopher Kirk Johnson, Psy.D., who had been recruited to his neutral role through Petersen's pre-appointment telephone call, directed Fischer to author her September 20, 2022 clinical letter, and allowed Fischer to travel to his office to view father-curated recordings of the children without Petitioner's knowledge or presence. When Petitioner sought medical attention for E.L.'s boils, Dr. Johnson threatened to use her request for medical care against her parenting rights and to seek their removal via the court - converting a mother's advocacy for her child's health into a weapon against her. On February 25, 2026, the Oregon Board of Psychology confirmed that Dr. Barsion-Ellis holds no Oregon psychology license. The

evidentiary foundation for permanent no-contact rested on the one-sided recommendations of an unlicensed evaluator who admittedly never assessed the parties or children, coordinated through a clinical pipeline directed by a PC who threatened to use a mother's medical advocacy for her own child against her parenting rights.

F. Orders Entered and the Abusive Litigation Restriction

On November 8, 2023, the trial court entered an Order Restricting Abusive Litigation (FL Sub 562) under RCW 26.51. App. C. The order found that Petitioner's court filings were "abusive" and required that "any pleadings filed" by Petitioner first be submitted to Judge Banfield for pre-approval before they could proceed to court. This order was entered against the petitioner who, on August 28, 2023, had obtained a domestic violence protection order as a victim. It was entered under a statute whose stated legislative purpose is to protect domestic violence victims from abusive litigation by perpetrators. Petitioner was not present and had filed no written response.

FL Sub 651 - the instrument that imposed a 72-month prefiling restriction on appeal - contains no independent factual findings. Every substantive finding in the order, including the relationship finding, the domestic violence finding, the abusive litigation finding, and the proof of abusive litigation finding, states exactly one thing: "Pursuant to order dated November 8, 2023." App. C. This instrument restricts a parent's access to courts for six years on the sole basis of findings in a predecessor order entered by a judge who had disclosed "huge bias," at a hearing the petitioner did not attend, against a party who was never lawfully served.

On March 20, 2025, the certified VRP captures an exchange between Judge Banfield and Respondent's counsel, Nathan Petersen, after Petitioner had withdrawn from the hearing. Petersen reported to Judge Banfield that a successor judge had prepared a whiteout amendment

of the abusive litigation order. Judge Banfield responded: "Good." Petersen indicated the successor judge may have entered it. Banfield responded: "Perfect." VRP, March 20, 2025, Vol. III, pp. 29–30. Two weeks later, this became FL Sub 651.

G. Five Years of Systematic Delay

Three court-ordered psychiatric evaluations - Columbia Wellness (January 2021), Dr. Scoval, and Dr. Tutty - all returned without adverse findings, each confirming Petitioner as a capable and concerned parent. VRP, Oct. 11, 2023, p. 27. No evaluation ever resulted in any restoration of parenting time. When Petitioner raised each broken promise on the record, Judge Banfield confirmed each with "Yeah," "Mm-hmm," and "Okay." Then the November 8, 2023 Temporary Parenting Plan ordered a fourth evaluation, and the November 12, 2025 Final Parenting Plan ordered a fifth - perpetuating an evaluative loop with no achievable endpoint that functions as judicial harassment in itself. Three evaluations completed, all cleared. Zero evaluations of the father - all waived - despite documented domestic violence allegations, the children's worsening mental health crises under his sole custody, and a psychosexual evaluation Respondent was ordered to complete before a neutral judge and never did. A third track completes the asymmetry: C.L. and E.L. themselves had a court-ordered forensic sexual assault evaluation at Harborview Sexual Assault and Trauma Center, recommended by expert Dr. Tutty and ordered by Judge Banfield on October 22, 2021 - cancelled by Banfield within minutes of being ordered at the same hearing, when Petitioner raised a legitimate concern about Respondent's sole control of transport. The children were never forensically evaluated for sexual abuse despite documented disclosures. The complete picture: an evaluation loop imposed on the mother as a harassment mechanism; zero evaluations of the father despite court orders; and the children's own protective evaluation cancelled at the moment of ordering to preserve Respondent's control. That three-

track asymmetry is not a procedural irregularity. It is the systematic denial of the one process that might have protected C.L. and E.L. - imposed instead as punishment on the parent who sought to protect them.

The November 12, 2025 Restraining Order (Index No. 698) states: "Pleadings were provided to her attorney." Petitioner appeared pro se throughout these proceedings; she had no attorney. Returns of Service (Index Nos. 702 and 703) document three failed service attempts by a peace officer on November 13, 15, and 16, 2025 - with the notation: "We attempted service at the two addresses we had for Angela and were told she does not live at either." The Restraining Order was never served. An unserved restraining order containing an affirmative false recital about service cannot be lawfully enforced, and the false recital directly corroborates the due process claims in Questions 1 and 2.

Sub 682 - the August 7, 2025 Trial Ruling that constitutes the sole stated basis for all findings in the permanent Final Order on Modification - contains a facially erroneous reference to a person identified as "Flavio Garcia," a non-existent person who is not a party to this proceeding. Respondent's name is Flavio Faustino Leija. An order that permanently terminates a parent's rights on the basis of a foundational document identifying the wrong party was not independently authored, reviewed, or verified before entry. Non-judicial acts - including the ministerial stamping of pre-drafted orders - do not carry judicial immunity. Forrester v. White, 484 U.S. 219, 227–28 (1988).

H. Proceedings Below and the Waiver Holdings

Petitioner appealed from the order quashing the temporary DVPO under No. 58824-2-II, and from the abusive litigation order under No. 59547-8-II. Division II consolidated the two matters and issued an unpublished opinion on July 29, 2025 (Glasgow, J.).

The Court of Appeals held that Petitioner's challenge to the abusive litigation order was "waived" because she did not file a written response to the motion and did not "specifically address or object to the motion" at the hearing. App. A, at 12. The court did not address whether Petitioner had been lawfully served with the motion.

Notably, the Court of Appeals did not merely leave the service question unresolved — it affirmatively characterized the service failure as Petitioner "improperly refus[ing] service," App. A, at 8, reaching that factual conclusion without any analysis of whether email service on an unrepresented pro se party in proceedings carrying incarceration risk satisfied constitutional minimum requirements. A court that resolves the predicate constitutional question — was service adequate? — against the party by characterization rather than legal analysis, and then uses that implicit resolution to support a waiver finding, has compounded the due process violation rather than cured it.

The Court of Appeals held that the DVPO quashing order was not reviewable because it was not a final judgment under RAP 2.2, and independently held review moot because the temporary DVPO would have expired by its own terms regardless. App. A, at 11.

The Court of Appeals rejected Petitioner's judicial-bias claim on the grounds that "an objective observer would not question the fairness of the proceedings." App. A, at 15. The court held that the trial court's statement of "huge bias" against Petitioner was made "while granting Garcia-Leija's request for more parenting time" and therefore did not violate the appearance of fairness doctrine. Id. The Washington Supreme Court dismissed Petitioner's petition for review as untimely on February 4, 2026. App. B.

REASONS FOR GRANTING THE WRIT

I. THE FOURTEENTH AMENDMENT REQUIRES MEANINGFUL NOTICE BEFORE A COURT MAY SEVER ALL PARENT-CHILD CONTACT - AND COURTS NATIONWIDE LACK GUIDANCE ON THE PROCEDURAL FLOOR

State courts across the country face this question without controlling guidance. This Court in Troxel v. Granville, 530 U.S. 57, 65 (2000), identified "the interest of parents in the care, custody, and control of their children" as "perhaps the oldest of the fundamental liberty interests recognized by this Court," but expressly declined to define the procedural minimum for emergency custody restrictions. Lower courts have not achieved consensus on what process is constitutionally required before a court may issue a complete no-contact order. Some jurisdictions require independent service and a meaningful pre-hearing opportunity to respond before emergency parenting restrictions may issue; others, as the Washington courts held here, permit permanent restrictions to be imposed and affirmed based on waiver doctrine without ever examining whether constitutional service requirements were met. This Court's resolution of the procedural minimum is urgently needed.

The minimum requirements of due process are "notice and opportunity for hearing appropriate to the nature of the case." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313 (1950). Where what is at stake is a parent's relationship with her children, the required notice and hearing must be meaningful, not perfunctory. Armstrong v. Manzo, 380 U.S. 545, 552 (1965) ("a mere gesture is not due process"). Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), courts must weigh the private interest affected, the risk of erroneous deprivation given current procedures, and the government's interest - a balancing that, where a parent is being severed from her children, overwhelmingly demands adequate notice and an opportunity to respond. See also

Stanley v. Illinois, 405 U.S. 645 (1972); M.L.B. v. S.L.J., 519 U.S. 102 (1996); Turner v. Rogers, 564 U.S. 431 (2011).

The record before this Court documents that on October 11, 2023, Petitioner appeared at the adequate cause hearing and expressly stated she had not received, read, or had an opportunity to respond to the modification petition. The trial court itself acknowledged this deficiency on the record, stating it would schedule a follow-up opportunity for her response. That follow-up never occurred before the order became permanent. The Court of Appeals resolved this question by holding the issue waived - without ever examining whether the service of process by which waiver was attributed to Petitioner complied with constitutional minimum requirements. The consequence is a mother severed from all contact with her children since August 12, 2023 - contact imposed through a modification proceeding at which she appeared without any opportunity to review the papers. This case presents a clean vehicle for this Court to define the procedural floor Troxel left undefined.

II. THE WAIVER FINDING IS ITSELF A DUE PROCESS VIOLATION

The Court of Appeals held that Petitioner's constitutional challenge to the abusive litigation order was "waived" because she did not file a written response to the motion. App. A, at 12. The court's entire waiver analysis rests on a factual predicate it never examined: whether Petitioner was lawfully served with the motion.

The record establishes that for a three-year period preceding the November 8, 2023 order, Respondent's attorney served Petitioner by email - a method the trial court itself confirmed on October 11, 2023 had always been legally insufficient: "Personal service is required ... you cannot be served via email ... the punishment in contempt can go up to jail. And so, you have to have personal service. That is the rule." VRP, Oct. 11, 2023, p. 77. Judge Banfield took no action

to address the defect retroactively and proceeded to find "waiver" on the basis of non-responses to email-served motions.

This Court has made clear that rights of constitutional magnitude are not lost by failure to exercise them when that failure is attributable to a constitutional violation: Armstrong v. Manzo, 380 U.S. 545, 550–52 (1965). The Court of Appeals imputed a "waiver" of Petitioner's court-access rights without ever determining whether she received the constitutionally required notice. That question is no longer a matter of inference. The certified Wittenborn email record documents that when Petitioner attempted in real time to submit responses through the same channel being used to issue the orders against her, the judicial assistant replied that her submission was "unacceptable and Commissioner will not see this." When the February 10 Re-Issuance was signed while the hearing was still in progress and Petitioner emailed asking how to object, she was told she should have objected at the hearing. Her response - "I tried and wasn't allowed to" - is now documentary evidence, not argument. The result: a permanent bar on Petitioner's court access was imposed and affirmed based on waiver of a right the party was never adequately notified she had the opportunity to exercise, through a channel that was explicitly closed to her. This Court should resolve whether a "waiver" finding complies with due process when the record shows the party was denied access to the mechanism through which the right could have been exercised.

III. THE STATE MAY NOT APPLY A DOMESTIC VIOLENCE ABUSIVE LITIGATION STATUTE AGAINST A DOMESTIC VIOLENCE VICTIM TO BAR HER FROM SEEKING JUDICIAL RELIEF

No state high court has directly addressed whether a domestic violence abusive litigation statute may be applied against a petitioner who obtained a DVPO as a victim. No federal court has

resolved whether such an application is consistent with the First Amendment, the Fourteenth Amendment's access-to-courts doctrine, and VAWA's federal policy commitments. This Court's guidance would resolve a recurring question in every jurisdiction that has enacted similar anti-DV abusive litigation statutes - and would establish that the mechanism designed to protect DV victims cannot be weaponized against them.

Washington's Abusive Litigation Act, RCW 26.51.010, was enacted to protect domestic violence victims from abusive litigation by perpetrators. In this case, the order restricting abusive litigation was entered against a party who, less than three months earlier, had obtained a domestic violence protection order as a victim. On August 28, 2023, Judge Suzan Clark - a neutral judge - granted Petitioner a temporary DVPO finding imminent risk of harm to Petitioner and her children. On November 8, 2023, using the abusive litigation statute enacted to protect DV victims, a different judge permanently restricted Petitioner's ability to file any court document - including documents seeking to restore contact with her children, enforce the psychosexual evaluation order, or seek enforcement of her own rights as a victim.

The statutory self-contradiction is independently dispositive. The Trial Ruling (Sub 682) invoked RCW 26.09.191 as authority for the 'abusive use of conflict' designation under RCW 26.51.020. But RCW 26.09.191(3)(c) expressly provides that 'protective actions shall not constitute a basis for finding abusive use of conflict' and defines protective actions to include protection order petitions, law enforcement reports, and child safety complaints - precisely the conduct Sub 682 characterizes as vexatious. The designation is self-defeating on the face of the statute it invokes.

The First Amendment protects the right to petition courts for redress of grievances. Tennessee v. Lane, 541 U.S. 509 (2004). The Fourteenth Amendment protects meaningful access to courts, especially where fundamental interests are at stake. Boddie v. Connecticut, 401 U.S. 371, 376–

77 (1971). A state court order that permanently restricts a DV victim's court access - applied under a statute whose stated purpose is to protect DV victims - raises a serious federal question about compatibility with the constitutional rights VAWA is designed to vindicate. 34 U.S.C. § 12291 et seq. Judicial actors who invert anti-DV statutes against their intended beneficiaries, and whose acts in doing so operate outside any adjudicative function, act beyond the protection of judicial immunity. Forrester v. White, 484 U.S. 219, 227–28 (1988). This Court's guidance on when such an inversion crosses from judicial discretion into non-judicial, non-immune conduct is urgently needed.

IV. THE DUE PROCESS CLAUSE DOES NOT PERMIT ADJUDICATION OF PARENTAL RIGHTS BY A JUDGE WHO DISCLOSED ACTUAL BIAS, CONFIRMED A PREDICTED OUTCOME, AND COORDINATED EX PARTE WITH OPPOSING COUNSEL

This Court has not had occasion since Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009), to articulate the specific quantum of documented bias - prediction of outcome, on-record admission of a "skewed lens," ex parte coordination on the merits, and public confirmation of the predicted outcome - that is constitutionally "too high to be constitutionally tolerable." Id. at 886. Lower courts are divided on how to apply Caperton to the documented-but-affirmed-bias scenario this record presents. This case provides a clean factual record for resolving that uncertainty.

The certified court record documents at least six sequential and mutually corroborating manifestations of structural judicial bias:

First - October 2021: The prediction. On October 22, 2021, after verbally ordering a 50/50 parenting arrangement and then retracting it, Judge Banfield stated: "You are on your way to

never seeing your kids again." VRP Vol. 2–3, pp. 991–1041. This was not a ruling. It was a prediction of outcome that the November 12, 2025 Final Parenting Plan fulfilled with precision.

Second - DV expertise claimed; victim mocked. On June 18, 2021, Banfield told counsel: "I know some of them can be trauma responses. I take that into consideration. I've got a background in domestic violence." COA 574870 RP 135, lines 11–18. She denied the request for a DV-qualified GAL. Then in June 2022, from the same bench, she mocked the same litigant's documented trauma in three successive statements: "We just heard how victimized she was here." COA 574870 RP 1328, lines 22–23. "Because that's what this - this whole - everything in the trial kept turning back to this victimization." COA 574870 RP 1329, lines 2–6. "Every time I'm clear somehow - somehow I've left some window open for her to jump through." COA 574870 RP 1118, lines 14–18. A judge who claims DV expertise to deflect a request for a qualified neutral, then one year later mocks that same litigant's trauma responses as bad-faith litigation conduct, has not exercised judicial discretion. She has deployed claimed DV authority as a weapon against the person DV law is designed to protect.

Third - March 2023: The bias admission. On March 17, 2023, Judge Banfield stated on the record: "I have a huge bias on this side about your behavior when I make a ruling. [M]y lens [has been] so skewed over the duration of this case." Supplemental VRP, March 17, 2023, p. 97, lines 20–24. Two months later: "This case scares me. You knew I didn't even want to give custody back to mom, because of her behavior, any custody." Supp. VRP, May 19, 2023, p. 166. A judge who reveals she never wanted to restore any custody to the mother is announcing that her judicial acts have been shaped by predisposition rather than evidence.

Fourth - September 2023: The confirmation. When Petitioner confirmed on the record Banfield's 2021 prediction that she would never see her children again, Banfield's response - "Well, good" -

was not a denial, correction, or clarification. It was an affirmation in open court that the prediction had been made and that Banfield was satisfied. Under Caperton, a judge who announced in 2021 that a parent was "on her way to never seeing her kids again," and who in September 2023 confirmed that prediction with "Well, good," cannot have presided over every intervening proceeding without a constitutionally intolerable risk of bias.

Fifth - the ex parte coordination. Judge Banfield simultaneously terminated Petitioner's DVPO, pre-scheduled the adequate cause proceeding, and pre-determined its outcome at the September 13, 2023 hearing - nine days before the petition existed. VRP, Sept. 13, 2023, pp. 10, 30–32, 44–46. And on March 20, 2025, the certified transcript records Banfield responding "Good" and "Perfect" to Petersen's report about the whiteout amendment of the abusive litigation order - an exchange conducted in the opposing party's absence. VRP, March 20, 2025, Vol. III, pp. 29–30.

Sixth - Pro se exploitation and financial contempt. The abusive litigation order exploited Petitioner's pro se status - a status forced upon her by the April 22, 2022 account freeze that dismantled AGL Investments and stripped her of resources for legal fees, entered the same day Banfield characterized her from the bench as "this woman who has made no money on her own this entire time." COA 574870 RP 1127. Financial devastation and court-access restriction were imposed in tandem. The bench characterization that Petitioner had made no money "on her own this entire time" is directly contradicted by Ms. Couch's sworn testimony - on the same certified record - that AGL Investments generated nearly $500,000 in investment returns for the family estate in a single year. A presiding judge who states from the bench a conclusion that is irreconcilably contradicted by the sworn testimony of a court-appointed forensic expert on the same record has not exercised judicial discretion. She has stated a falsehood in open court, on the record she controls, against the party she has already predicted will never see her children again.

The Court of Appeals' finding that "an objective observer would not question the fairness of the proceedings" in light of this record conflicts directly with Caperton's structural-error analysis and warrants plenary review.

Under Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 886 (2009), the cumulative record - an October 2021 prediction that Petitioner was "on your way to never seeing your kids again," confirmed with "Well, good" in September 2023; a June 2022 triple mockery of her domestic violence victimization by the same judge who had claimed DV expertise and promised sensitivity; the April 2022 financial contempt expressed from the bench about the primary caregiver of a 22-year marriage; a March 2023 on-record admission of "huge bias" and a "lens so skewed over the duration of this case"; a court-access restriction imposed against an unrepresented DV victim at a hearing she did not attend, by a judge who had called for her incarceration four days earlier; and ex parte coordination bracketing the entire proceeding, from the September 13, 2023 pre-scheduling of Petersen's unfiled petition through the March 20, 2025 "Good" and "Perfect" response to the whiteout amendment - establishes structural judicial bias that is constitutionally intolerable. The Court of Appeals' finding that an objective observer would not question the fairness of these proceedings conflicts directly with Caperton and warrants this Court's plenary review.

V. JUSTICE DELAYED IS JUSTICE DENIED: THE SYSTEMATIC USE OF PROCEDURAL OBSTRUCTION TO PERMANENTLY EXTINGUISH A PARENT'S CONSTITUTIONAL RIGHTS WARRANTS THIS COURT'S REVIEW

The five questions presented in this Petition arise from individual constitutional violations. Taken together, they describe something the Due Process Clause cannot sustain: a five-year system of procedural delay designed and operated not to resolve a custody dispute, but to ensure

that a mother never again had meaningful access to her children or to the courts. Each component is documented in the certified court record.

The children were removed from their mother in January 2021 not through any lawful parenting-plan modification but through a sequence of restraining orders pre-drafted by opposing counsel - Petersen's own December-dated signature on the January 4 filing establishing they were prepared weeks in advance - served by email on an unrepresented party in violation of the orders' own mandatory warnings, bearing "NO LEI" notations confirming they were never entered in WACIC, containing false service-waiver certifications, and issued through a private email channel between Petersen's office and the court's judicial assistant from which Petitioner was explicitly excluded. When Petitioner attempted to object through that channel, the judicial assistant replied her submission was "unacceptable." When the February 10 extension was signed while the hearing was still underway, Petitioner's real-time email asking how to object was deflected with the instruction to have objected at the hearing. Her response - "I tried and wasn't allowed to" - is preserved in the documentary record. Respondent confirmed at trial that contact was "100 percent in your power."

Every legal avenue Petitioner used to seek relief was closed. The DVPO a neutral judge granted on August 28, 2023 was quashed through two ex parte orders before Respondent was personally served - the VPD log showing Sgt. Schultz had already telephonically notified Respondent the order existed before Officer Santos attempted service at the door, and Banfield signed Petersen's quash order thirteen minutes after the failed service attempt. On August 30, Officer Bauman simultaneously converted an 18-day-old civil dispute call into a criminal protection order violation case against Petitioner - retroactively adding a RCW 7.105.450 offense on the same day the DVPO was quashed. The November 8, 2023 abusive litigation order then required judicial

pre-approval for every future filing, placing the gatekeeping authority over all of Petitioner's court access in the hands of the same judge who had called for her incarceration from the bench.

On June 29, 2023, the certified VRP records Judge Banfield and Respondent's attorney calling for Petitioner's incarceration simultaneously from the bench. The verbatim exchange: "MR. PETERSEN: She should be - THE COURT: She should be in jail. MR. PETERSEN: She should go into custody next time this happens. THE COURT: She should be in jail. She should be. THE COURT: She should be in jail. MR. PETERSEN: - I'm gonna be asking that she be held - taken into custody if she leaves again like that." COA 574870 Supp. VRP, June 29, 2023, p. 269, lines 17, 20, 23. A presiding judge repeating "She should be in jail" three times while opposing counsel simultaneously calls for incarceration is not judicial management. It is coordinated intimidation, on the certified record, by the judge who four months later required judicial pre-approval before Petitioner could file any document - placing gatekeeping authority over her court access in the hands of the same judge who had just coordinated with opposing counsel to seek her imprisonment.

The five-year pattern documented in this record is not Respondent's first use of this mechanism. The October 30, 2019 parenting plan granted Petitioner full residential custody of a third daughter, S.L. Following S.L.'s disclosures of abuse against Respondent, the same clinical pipeline was deployed: a therapist who counseled S.L. without ever assessing Petitioner; a GAL, Lawrence Merrifield, who adopted one-sided clinical conclusions without forensic investigation and without interviewing C.L. or E.L. despite their disclosures. At the August 2021 trial, Merrifield testified that Petitioner should lose custody of C.L. and E.L. if she continued to report child sexual abuse - directly penalizing a protective parent's abuse disclosures. S.L. was removed from Petitioner's custody on October 13, 2020. Petitioner has had zero contact with S.L. since

that date. The identical mechanism was then redeployed against C.L. and E.L.: Petersen-coordinated professionals, one-sided clinical records, findings without independent investigation, removal from the protective parent upon abuse disclosures. The documented pattern - child discloses abuse, clinical pipeline is activated, child is removed from protective parent, contact is severed - was executed against three of Petitioner's children across two cohorts. This Court is being asked to review its second iteration.

The result is permanent. Since August 12, 2023, court-imposed orders have severed all contact - more than thirty-two consecutive months. C.L. and E.L. have been separated from their mother since Jan 2021 and throughout their most formative developmental years. The court-appointed evaluator who triggered this outcome admitted under oath she never spoke to the children, never visited their mother's home, and relied exclusively on one-sided communications. Respondent himself testified: "I fear for the safety of my kids mentally and physically." VRP, June 2, 2025, p. 204. The November 2025 Final Parenting Plan's reunification structure gives Respondent veto power over every step: the supervision agency in Phases 2 and 3 requires his approval, with no deadline and no mechanism if he withholds it, and §10(13) authorizes him to terminate Petitioner's phone calls if she mentions her abuse allegations - a content-based speech restriction enforced by the adverse party as a condition of any parental contact. No court has addressed the constitutional question posed by this five-year systemic record. Review is warranted.

VI. THE COURT OF APPEALS' MOOTNESS HOLDING CATEGORICALLY IMMUNIZES EX PARTE DVPO QUASHINGS FROM APPELLATE REVIEW AND CONFLICTS WITH THIS COURT'S CAPABLE-OF-REPETITION JURISPRUDENCE

The Court of Appeals held that Petitioner's challenge to the ex parte quashing of her DVPO was moot because "the temporary DVPO would have expired by its own terms" regardless. App. A,

at 11. That holding creates a categorical rule that conflicts with this Court's mootness jurisprudence in three distinct ways.

First, a temporary DVPO always expires by its terms - that is what makes it temporary. Under the COA's logic, the constitutionality of quashing a domestic violence protection order could never be reviewed on appeal, because by the time any appellate ruling issues, the temporary order will always have expired. This Court has long recognized that claims "capable of repetition, yet evading review" are not moot. Southern Pacific Terminal Co. v. ICC, 219 U.S. 498 (1911). The two-part test from Weinstein v. Bradford, 423 U.S. 147 (1975), is squarely satisfied: (1) the challenged action's duration is too short to be fully litigated before cessation (a temporary DVPO expires within days by design); and (2) there is a reasonable expectation that the same complaining party will be subjected to the same action again (a domestic violence victim who has obtained one DVPO may require another, and the ex parte quashing procedure applicable to her case remains unchanged).

The Court of Appeals applied this categorical rule by citing Blackmon v. Blackmon, 155 Wn. App. 715, 717, 230 P.3d 233 (2010), for the proposition that appeals of expired DVPOs are generally moot — without considering whether the capable-of-repetition exception applied. App. A, at 11. That is precisely the state rule this Court is asked to review: a precedent that mechanically treats DVPO expiration as rendering all review moot, regardless of whether the underlying injury persists or the conduct is capable of repetition.

Second, the custody consequences of the quashing were never moot. The no-contact order entered on October 11, 2023 - the direct and stated consequence of the quashed DVPO proceeding - remained operative for years and was codified into the November 12, 2025 Final Parenting Plan. A claim does not become moot when the specific challenged order expires if the

injuries flowing from that order remain live. Friends of the Earth, Inc. v. Laidlaw Environmental Services, 528 U.S. 167, 189 (2000).

Third, the voluntary cessation doctrine bars the state from claiming mootness when the state actor's own conduct caused the alleged mootness. Judge Banfield quashed the DVPO through not one but two ex parte orders on August 30 and 31, 2023 - within 48 hours of its issuance, before Respondent was even served - and entered a third termination order on September 13, 2023. A court cannot insulate its own constitutional violation behind a mootness finding where the violation itself is what caused the order to expire. Already, Inc. v. Nike, Inc., 568 U.S. 85, 91 (2013). This Court's guidance on whether state courts may apply mootness to avoid reviewing the constitutionality of ex parte DVPO quashings - a question with direct consequences for domestic violence victims nationwide - warrants plenary review.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted. The questions presented - whether (1) the Fourteenth Amendment requires meaningful notice before a court may impose complete no-contact severing a parent from her children; (2) a waiver finding complies with due process when the party was not lawfully served with the motion whose non-response generates the waiver; (3) a DV abusive litigation statute may be applied against a DV victim to bar her from court access; (4) due process permits adjudication by a judge who disclosed actual bias, pre-coordinated with opposing counsel, and confirmed a predicted outcome with "Well, good"; and (5) a temporary DVPO quashing is rendered automatically moot on appeal because temporary orders expire by their terms, despite lasting custody consequences -

are recurring, substantial constitutional questions that the courts below resolved incorrectly and that this Court's guidance is needed to resolve.

Two additional facts are time-critical. First, OAH Docket No. 03-2026-DCS-70011 - a license suspension hearing scheduled May 12, 2026, eight days after this Petition's deadline - seeks to enforce a combined $47,000 obligation by suspending Petitioner's Oregon and Washington real estate licenses, destroying her only remaining means of livelihood. A concurrent application for a stay under Rule 23 may follow.

Second, on March 27, 2026, Petitioner filed a pre-abduction alert with NCMEC and a tip with ICE/HSI on March 29. Respondent obtained both children's U.S. passports on August 20, 2024, without Petitioner's consent, owns property in San Luis Potosí, Mexico, and at the 2021 trial threatened to take the children to Mexico. VRP, 2021 Trial, p. 779, ll. 6–14. RCW 26.09.191(3)(g) requires consideration of international flight risk; the permanent orders contain no such analysis. Every day the permanent orders remain in force increases the risk that any reversal by this Court will be rendered practically unenforceable.

For five years - from January 8, 2021, when Petitioner last had her children under the operative parenting plan, through February 4, 2026, when the highest court of Washington dismissed her petition as untimely - every mechanism of law that should have protected this mother and her children was systematically foreclosed: by void orders bearing "NO LEI" notations enforced as if they were law; by an expert who never spoke to the children; by a judge who said "Well, good" when told she had predicted a parent would never see her children again; by a filing restriction that guaranteed the untimeliness it then used to bar review; and by a mootness rule that will, if affirmed, immunize every future ex parte DVPO quashing from appellate scrutiny. Justice was not merely delayed. It was architecturally prevented. This Court's review can begin to restore it.

The children at the center of this dispute - C.L., now age 13, and E.L., now age 11 - have been separated from their mother since January 8, 2021. Since August 12, 2023, court-imposed orders have severed all contact whatsoever - more than thirty-two consecutive months -- nearly 1,000 days -- of complete separation. From January 8, 2021, when Respondent did not return the children on the scheduled exchange date, to the filing of this Petition, C.L. and E.L. have been separated from their mother for approximately 1,929 days without any lawful parenting plan modification and without any finding of unfitness. Certiorari should be granted.

Respectfully submitted,

AGL

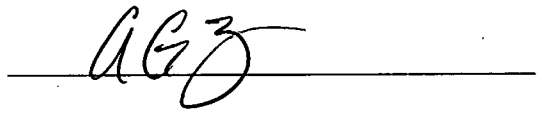
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DATED: April 21, 2026

CERTIFICATE OF COMPLIANCE

I certify that the body of this petition contains fewer than 9,000 words, excluding the cover page, table of contents, table of authorities, statement of opinions and orders below, jurisdiction, constitutional and statutory provisions, and appendix, as required by Supreme Court Rule

33.1(b). The petition is set in Times New Roman 12-point font with double spacing on 8.5 × 11 inch paper pursuant to Supreme Court Rule 33.2 (pro se in forma pauperis format).



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