26-6045

ORIGINAL

No. _____

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

EMMA JANE AVILA POHLMAN,
Petitioner,

v.

CLAYTON TREVOR FABECK,
Respondent.

On Petition for a Writ of Certiorari to
The California Court of Appeal,
Second Appellate District

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Due Process Clause of the Fourteenth Amendment permits a State to restrict and then eliminate a Mother's contact with her children in reliance on an Evidence Code § 730 evaluator's psychiatric diagnosis, after that evaluator testified under oath that the "delusion" he used to justify his diagnosis was not a "delusion" at all.

2. Whether the Due Process Clause of the Fourteenth Amendment allows a State to apply California Family Code § 3044 against a Mother based on emails found to have "disturbed Father's peace," while excluding evidence of Father's violence against Mother, and testimony from the Hawai'i Police Department offered to prove that Father lied to the court.

3. Whether the Due Process Clause of the Fourteenth Amendment allows a State to indefinitely bar all contact between a Mother and her children under the label of a "suspension" of visitation, without clear and convincing evidence of parental unfitness or serious detriment to the children.

LIST OF PARTIES

Petitioner Mother, Emma Jane Avila Pohlman, was the appellant in the California Court of Appeal, Second Appellate District ("Court of Appeal"), the petitioner for review in the Supreme Court of California, and the respondent in the Superior Court of California, County of Los Angeles ("Superior Court") proceedings relevant to this petition. Respondent Father, Clayton Trevor Fabeck, was the respondent in the California Court of Appeal, Second Appellate District and the petitioner in the Superior Court of California, County of Los Angeles. The parties are natural persons. A corporate disclosure statement under Supreme Court Rule 29.6 is not required.

RELATED CASES

This case arises from *In re Marriage of Fabeck (Fabeck v. Pohlman)*, Superior Court of California, County of Los Angeles, No. 20PDFL01877. The Superior Court entered a Judgment of Dissolution on July 13, 2023. It suspended Mother's parenting time on September 11, 2024, then entered post-judgment orders suspending parenting time indefinitely on February 21, 2025. Petitioner appealed those February 21, 2025 orders to the California Court of Appeal, No. B345134. The Court of Appeal affirmed on March 27, 2026. Petitioner sought review in the Supreme Court of California, No. S295979. Review was denied on June 10, 2026.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was June 10, 2026. A copy of that decision appears at Appendix B.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in relevant part: "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."

California Evidence Code § 730 authorizes the court to appoint one or more experts to investigate, report, and testify. Court-ordered child-custody evaluations are governed by California Rules of Court, rule 5.220.

California Evidence Code § 801 limits expert opinion to matter "of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates." California Evidence Code § 803 provides that the court "may, and upon objection shall, exclude testimony in the form of an opinion that is based in whole or in significant part on matter that is not a proper basis for such an opinion." In *Sargon Enterprises, Inc. v. University of Southern California*, 55 Cal. 4th 747, 771-72 (2012), the California Supreme Court held that trial courts act as gatekeepers and must exclude expert opinion that is speculative, unsupported, or based on an improper type of matter.

California Family Code § 3044 created a rebuttable presumption against awarding sole or joint physical or legal custody to a person found to have perpetrated domestic violence against the other party seeking custody within the previous five years. The presumption could be rebutted by a preponderance of the evidence. In deciding whether it had been overcome, the court was required to

consider listed statutory factors and any other factors the court determined were relevant, including relevant admissible evidence the parties submitted.

California Family Code § 6320 authorizes protective orders under the Domestic Violence Prevention Act. It includes "disturbing the peace of the other party," defined as "conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party." See *In re Marriage of Nadkarni*, 173 Cal. App. 4th 1483, 93 Cal. Rptr. 3d 723 (2009).

STATEMENT OF THE CASE

This petition presents three questions of federal due process. Each arises from state-court orders that ended all contact between Mother and her children.

First, a court-appointed California Evidence Code § 730 evaluator, sought by Father and appointed by the Superior Court, diagnosed Mother with a psychiatric disorder based her "imaginary" love with Elon Musk as evidence of a "delusion." At trial, during his cross-examination, the evaluator admitted under oath that this was not a "delusion" at all. The courts still used the diagnosis to restrict, and then eliminate, Mother's contact with her children.

Second, the Superior Court applied Family Code § 3044 against Mother based on emails found to have disturbed Father's peace. The court cut-off all parenting time between Mother and her children, while excluding Mother's evidence of Father's violence against her, and live testimony from the Hawai'i Police Department offered to prove that Father lied to the court.

Third, the California Court of Appeal affirmed an indefinite bar on all contact, and treated *Santosky v. Kramer*, 455 U.S. 745 (1982) as "inapposite," because the order was labeled a "suspension" subject to later change.

These are questions of federal constitutional law. They warrant this Court's review.

(1) Evidence Code § 730 Evaluation & the Elon Musk Diagnosis

Mother Emma Jane Avila Pohlman and Father Clayton Trevor Fabeck are the parents of [redacted] In the parties' dissolution proceedings in the Superior Court of California, County of Los Angeles, No. 20PDFL01877, the court appointed David J. Sheffner, M.D., as the Evidence Code § 730 child-custody evaluator. Dr. Sheffner diagnosed Mother as "bipolar with psychotic features," based on her "imaginary" love with Elon Musk. The Superior Court later renamed the Elon Musk diagnosis to "major mental illness" in their Statement of Decision and July 13, 2023 Judgment, then used that diagnosis to limit her to recorded monitored zoom calls, and ultimately suspended all parenting time.

That premise was tested at trial. On March 20, 2023, Dr. Sheffner defined a "delusion" as a "fixed false belief unamenable to reason." App. H at 112a-113a. On cross-examination Mother asked how an admittedly "imaginary" love with Elon Musk could be a fixed false belief if she herself said it was imaginary. Dr. Sheffner answered under oath: "You would be correct. That would not be a delusion." App. H at 114a. Despite this material recantation by the expert, the Superior Court used

the diagnosis in findings about Mother's mental health, and in the orders that ended contact with her children.

The evaluator essentially supplied the "delusion," defined "delusion," and then conceded under oath that the "delusion" he based his diagnosis on did not meet his definition of a "delusion." Evidence Code §§ 801 and 803, and *Sargon Enterprises, Inc. v. University of Southern California*, 55 Cal. 4th 747, 771-72 (2012), require a court to examine whether expert reasoning actually runs from the material used to the conclusion reached. The federal question is whether the Due Process Clause of the Fourteenth Amendment permits a State to keep using a court appointed evaluator's diagnosis to restrict, and then end, the parent-child relationship after the evaluator withdrew under oath the premise offered to support that diagnosis.

Changing the label to "major mental illness" does not add the premise back.

(2) The May 24, 2023 Tentative Statement of Decision

On May 24, 2023, more than two months after Dr. Sheffner's sworn concession, the Superior Court (Hon. Amy M. Pellman, Ret.) issued its Tentative Statement of Decision After Trial. The Superior Court found that Mother showed "grandiose and delusional thinking, evidencing her psychosis." As an "illustrative example," it cited Mother's December 24, 2020 email to the California State Bar saying she had to "beg Elon for help." It treated her Elon Musk references as evidence of psychosis. The Superior Court rejected her testimony that Elon Musk was her "imaginary" boyfriend, and said "the emails and other evidence indicate otherwise and instead only support Dr. Sheffner's concerns."

That finding does not match the evaluator's trial testimony. Dr. Sheffner had defined a delusion as a "fixed false belief unamenable to reason." App. H at 112a-113a. When asked about Mother's acknowledgment that the love was imaginary, he said: "You would be correct. That would not be a delusion." App. H at 114a. The tentative decision did not address that answer. The court adopted Dr. Sheffner's written evaluation. It accepted his conclusion that Mother's "psychosis substantially impairs her ability to parent and necessitates monitoring" of contact with the children. Tentative Statement of Decision at 10.

The sequence matters. The appointed evaluator named a supposed delusion, defined the word, and then admitted under oath that the supposed belief "would not be a delusion." Two months later the court still treated Mother's Elon Musk references as "delusional thinking" and "psychosis" supporting that same evaluator without any mention of his concession. The reporter's transcript had not even been prepared yet.

The result was concrete. The court found, "as per Dr. Sheffner's evaluation," that Mother "continues to manifest a major mental illness which impairs her ability to fully parent her children appropriately and safely." It held that monitored, recorded video calls were "the only safe way" for Mother to see [redacted]. Mother does not ask this Court to diagnose her or to reweigh a custody record. The question is process: whether the Fourteenth Amendment permits a State to keep using a court-appointed diagnosis to restrict, and later end, all parent-child contact

after the expert admitted under oath that the material premise of that diagnosis was not a "delusion."

(3) The July 13, 2023 Judgment

The Judgment of Dissolution, entered July 13, 2023, turned those findings into custody and visitation orders. Applying Family Code § 3044, the court found that Mother had perpetrated domestic violence against Father based on emails that "disturbed the peace" of Father. The court rejected the evidence Mother offered of Father's violence against her, and awarded Father sole legal and physical custody of the children.

The Judgment separately found that Mother "continues to manifest a major mental illness (*i.e. her love with Elon Musk*) which impairs her ability to fully parent her children appropriately and safely," and that "recorded video calls are the only safe way to conduct visitation." The court limited Mother to one hour of monitored, recorded video contact each week, with only a limited path toward monitored in person visits controlled entirely by Father. The mental health finding and the § 3044 presumption worked together. One was the stated safety reason for restricting Mother's contact. The other supported sole custody for Father.

The imbalance in the § 3044 proceeding is the second Question Presented. Mother submitted evidence that Father had committed violence against her, including photographs of Father physically assaulting Mother, and audio of Father screaming at Mother that he prayed to God for her death. The court did not make separate findings on each incident. It treated all Mother's evidence as not credible,

and classified her emails as domestic violence because they disturbed Father's peace. The presumption then ran against Mother, while the evidence she offered of Father's violence was completely rejected.

The mental health finding presents a separate due process problem. The court made that finding "as per Dr. Sheffner's evaluation" after Dr. Sheffner had already testified that, given Mother's statement that the relationship was imaginary, the supposed belief "would not be a delusion." App. H at 114a. The court still treated Mother's Elon Musk references as "delusional thinking" and "psychosis." It adopted the evaluator's view of her parenting and held that ordinary visitation was unsafe.

(4) September 11, 2024 and February 21, 2025 Orders Suspending All Contact Between Mother and Children

Father then moved to take away the only contact left under the Judgment: Mother's weekly one hour monitored, recorded video visits with [redacted] On July 11, 2024, he filed a Request for Order seeking to end visitation. On September 11, 2024, the court suspended Mother's parenting time pending further proceedings. App. D. Father also sought a domestic violence restraining based on emails sent to his lawyer where he was cc'd.

Mother opposed ending all contact. In her November 15, 2024 Responsive Declaration she invoked the Due Process Clause and *Troxel v. Granville*, 530 U.S. 57 (2000). She challenged the use of emails alleged to have disturbed Father's peace as a basis for ending visitation. She offered evidence of Father's violence against her, including a photograph of a May 16, 2020 incident. She also offered testimony

from Officer Castillo of the Hawai'i Police Department to prove that Father lied to the court.

On February 21, 2025, the Superior Court (Hon. Jannet Perez Santiso) entered the orders from which Mother appealed. App. C. The minute order carried forward the prior § 3044 finding and added another: "*The Court notes findings pursuant to Family Code Section 3044 made by Judge Pellman against the Respondent in the Judgment filed on 07/13/2023, and further makes its own findings pursuant to Family Code Section 3044 that abuse occurred within the last five years of today's date and the presumption has not been rebutted.*" The court found a substantial change in circumstances. It suspended "all parenting time" for Mother "until further order from the Court." It issued a three year domestic violence restraining order protecting Father. The children were not named as protected parties. The Court then ordered Mother to complete a 52 week batterer intervention program, and required individual counseling under Family Code § 3190 to address her "mental health issues."

The evidentiary rulings are the second Question Presented. Mother offered live testimony from Officer Castillo of the Hawai'i Police Department to testify that Father had made a false representation to the court. She also submitted multiple photographs of multiple instances of Father's violence against Mother. On her offer of proof, only a 2019 incident had already been adjudicated. The 2020 incidents had not. The court excluded Police Officer testimony, because it was "not relevant" and

"highly, highly tenuous." The court then applied § 3044 against Mother and suspended all parenting time.

The question is whether due process permits a State to use a domestic violence presumption based on a "disturbing the peace" standard, to end all parent child contact, while shutting out evidence offered to show violence by the parent who benefits from that presumption, and Police Officer testimony offered to impeach that parent.

(5) The California Court of Appeal and the Supreme Court of California

Mother appealed. On March 27, 2026, the California Court of Appeal, Second Appellate District, Division One (Rothschild, P.J., Weingart, J., and M. Kim, J.), issued an unpublished opinion affirming. *In re Marriage of Fabeck*, No. B345134. App. A.

On Mother's due process challenge to the complete suspension of parenting time, the Court of Appeal held that clear and convincing evidence of serious detriment was not required. It distinguished *Santosky v. Kramer*, 455 U.S. 745 (1982), as follows: "Unlike a final termination of parental rights, however, the court's order denying Pohlman visits is subject to change at any time based on a showing of changed circumstances. *Santosky* is therefore inapposite." Slip op. at 11-12; App. A at 13a-14a. The court treated the fact that the order could later be modified as enough to put *Santosky* aside, even though the order suspended "all parenting time" "until further order from the Court." App. C. It affirmed under California's best interest framework and the substantial evidence standard.

The Court of Appeal also affirmed the exclusion of Officer Castillo's testimony and Mother's related evidence of Father's alleged violence. It said whether Father had abused Mother, including Hawai'i incidents about which Officer Castillo was offered, "ha[d] already been adjudicated" at the dissolution trial. It called the proposed impeachment evidence "far too 'tenuous.'" Slip op. at 14; App. A at 16a. However, Mother's offer of proof included 2020 incidents that she says were never adjudicated. She offered Police Officer testimony to prove that Father lied to the Court.

The opinion did not address Dr. Sheffner's sworn concession that the supposed delusion in his diagnosis was not a delusion. App. H at 114a. App. H at 114a. The Court of Appeal did not address the Superior Court's later use of Mother's Elon Musk references as evidence of "delusional thinking" and "psychosis."

Mother timely sought review in the Supreme Court of California, No. S295979. Review was denied on June 10, 2026. App. B. This petition followed. This Court has jurisdiction under 28 U.S.C. § 1257(a).

REASONS FOR GRANTING THE PETITION

The decision below presents recurring questions of federal constitutional law about the process a State must give before it ends all contact between a parent and her children. The record is clear. The court appointed evaluator's sworn concession is in the trial transcript. The later Statement of Decision treated the same subject as evidence of "delusional thinking" and "psychosis." The Judgment and the February 21, 2025 orders carried those mental health findings forward into sole

custody, a renewed use of § 3044, court ordered therapy for "mental health issues," and then the suspension of all parenting time.

The Court of Appeal's treatment of *Santosky v. Kramer*, 455 U.S. 745 (1982), is just as clear. It held *Santosky* "inapposite" because the complete cutoff was called a modifiable suspension rather than a final termination of parental rights. Its affirmance of the exclusion of Mother's rebuttal and impeachment evidence presents the imbalance in the second Question Presented. These questions are concrete, preserved, and outcome determinative. They do not ask this Court to reweigh a custody file. They warrant review.

(1) To protect fundamental parental rights from erroneous deprivation, this Court should hold that the Fourteenth Amendment bars total suspension of parent-child contact based on a court appointed expert opinion built on improper matter and unsupported reasoning.

The liberty interest of parents in the care, custody, and control of their children is "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000); see *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). The Due Process Clause gives "heightened protection against government interference with certain fundamental rights and liberty interests." *Troxel*, 530 U.S. at 65 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997)).

Troxel does not decide every custody case. This case involves contested findings of mental health and domestic violence. *Troxel* still fixes the size of the interest. That interest is the starting point for what process is required before a State may end all contact between a parent and her children.

Procedural due process looks to the private interest affected, the risk of an erroneous deprivation through the procedures used, the value of added safeguards, and the government's interests. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). A parent's interest in her children sits at the core of the liberty the Fourteenth Amendment protects. *Stanley*, 405 U.S. at 651; *Lassiter v. Department of Social Services*, 452 U.S. 18, 27 (1981). The risk of error is especially high when the cutoff depends on expert opinion whose stated premise the same court appointed expert later undercut under oath.

That is what happened. Evidence Code § 730 authorized the appointment of Dr. David J. Sheffner. Evidence Code §§ 801 and 803 restrict expert opinions that rest on improper matter. *Sargon Enterprises, Inc. v. University of Southern California*, 55 Cal. 4th 747, 771-72 (2012), requires the trial court to check the matter used and the reasoning from that matter to the conclusion. Those are state rules. They show that California itself sees the danger of letting major orders rest on expert reasoning with no proper foundation.

At trial, Dr. Sheffner admitted that his diagnosis was based on Mother's "imaginary" love with Elon Musk, which he classified as a "delusion" to justify his diagnosis. Dr. Sheffner defined a delusion as a "fixed false belief unamenable to

reason." App. H at 112a-113a. When faced with Mother's statement that her relationship with Elon Musk was "imaginary," he said under oath: "You would be correct. That would not be a delusion." App. H at 114a. That was March 20, 2023. More than two months later, the May 24, 2023 Statement of Decision said Mother showed "grandiose and delusional thinking, evidencing her psychosis." As an "illustrative example," the court used her Elon Musk references, including her December 24, 2020 email that she had to "beg Elon for help." App. G at 79a. It rejected her testimony that Elon Musk was her imaginary boyfriend. It said "the emails and other evidence indicate otherwise and instead only support Dr. Sheffner's concerns." *Ibid.* It did not address Dr. Shefner's concession.

The July 13, 2023 Judgment then found, "as per Dr. Sheffner's evaluation," that Mother "continues to manifest a major mental illness which impairs her ability to fully parent her children appropriately and safely." App. E at 47a. It held that monitored, recorded video was "the only safe way" for visitation. The February 21, 2025 order suspended "all parenting time" and required therapy for "mental health issues." The Court of Appeal affirmed without discussing Dr. Sheffner's concession or the conflict with the Statement of Decision.

By affirming without addressing Dr. Sheffner's testimony, the Court of Appeal left the federal rule unstated. This record is clean enough to state it. Dr. Sheffner gave the definition of a "delusion," then admitted that the "delusion" he used to justify his diagnosis, specifically Mother's "imaginary" love with Elon Musk, was not a "delusion." App. H at 112a-114a. The Statement of Decision still used the

same references as "delusional thinking" and "psychosis." App. G at 79a. Due process requires a real judicial look at that contradiction before a State may keep the opinion and use it to suspend all parenting time.

(2) To protect fundamental parental rights from erroneous deprivation, this Court should hold that the Due Process Clause bars a State from using California Family Code section 3044 to cut off all contact between a parent and child based on a vague finding that one parent disturbed the other parent's peace.

Family Code § 6320 treats "disturbing the peace" as abuse when, based on the totality of the circumstances, the conduct destroys the other party's mental or emotional calm. *In re Marriage of Nadkarni*, 173 Cal. App. 4th 1483, 93 Cal. Rptr. 3d 723 (2009). Once that finding is made, § 3044 creates a rebuttable presumption that awarding sole or joint custody to the perpetrator is detrimental to the child's best interest. This petition asks this Court whether the process used by the Superior Court satisfies the Fourteenth Amendment. The Judgment found that Mother's emails "disturbed [Father's] peace," invoked § 3044, rejected all evidence of abuse submitted by Mother, and gave Father sole legal and physical custody of children. The February 21, 2025 orders carried those findings forward, found that abuse had occurred within five years based on emails send to Father's lawyer, and that "the presumption has not been rebutted," issued a three year restraining order protecting Father (not the children), and suspended "all parenting time." App. C.

The predicate was Father's peace. The statutory result ran against Mother's relationship with [redacted]. The children were not protected parties. Mother offered multiple photographs of Father's violence against her, and Police Officer testimony to prove that Father lied to the court. The trial court excluded Police Officer testimony as "not relevant" and "highly, highly tenuous." The Court of Appeal affirmed. Slip op. at 14; App. A at 16a.

Mathews v. Eldridge, 424 U.S. 319, 335 (1976), looks to the risk of error. *Stanley v. Illinois*, 405 U.S. 645, 649, 657-58 (1972), holds that the State may not replace an individualized look with a blanket presumption when parental fitness is at stake. Although § 3044 is not the Illinois statute, the principle still applies when the State uses a presumption to strip parenting time. The version of § 3044 that governed these orders required the court, in deciding whether the presumption had been overcome, to consider listed factors and any relevant admissible evidence the parties submitted.

A State may protect victims of domestic violence. It may consider domestic violence in a child's best interest. It may not, consistent with due process, apply § 3044 to emails that disturbed Father's peace, renew the presumption, and end all parenting time, while excluding Mother's evidence of Father's violence, and a Police Officer testimony offered to prove that Father lied to the court.

(3) To protect fundamental parental rights from erroneous deprivation, this Court should hold that an indefinite bar on all parent-

child contact labeled a "suspension" requires clear and convincing evidence of parental unfitness or serious detriment to the children.

Santosky v. Kramer, 455 U.S. 745, 747-48, 769-70 (1982), holds that before a State may permanently and irrevocably terminate parental rights, due process requires proof by at least clear and convincing evidence. May a State indefinitely suspend all contact without clear and convincing evidence of unfitness or serious detriment, merely because the order can later be modified?

The Court of Appeal said yes, because of the caption: "*Unlike a final termination of parental rights, however, the court's order denying Pohlman visits is subject to change at any time based on a showing of changed circumstances. Santosky is therefore inapposite.*" Slip op. at 11-12; App. A at 13a-14a. It then used ordinary best interest review. That reasoning makes the Constitution turn on the label, not on the substance of the order. The February 21, 2025 suspended "all parenting time" "until further order from the Court." App. C. Mother lost every form of contact with [redacted] for an indefinite period.

A termination order wipes out legal parental status. An indefinite zero contact order does not. From the standpoint of the relationship itself, years of total separation cannot be handed back later as if childhood had been on hold. Years without a Mother's voice, presence, and care do not return.

Santosky said the standard of proof allocates the risk of error when the State interferes with a fundamental parent-child relationship. 455 U.S. at 755-57. The

harsher the deprivation, the more that risk matters. Here the State imposed the harshest limit short of formal termination: none at all, for no fixed time. *Troxel v. Granville*, 530 U.S. 57, 65 (2000), marks the size of the parent's interest. *Stanley v. Illinois*, 405 U.S. 645, 649, 657-58 (1972), rejects procedures that take a family relationship without an individualized determination. Together they say the State's label cannot replace review of the deprivation the order actually imposes.

Question 3 is narrow. When a State bars all contact for an indefinite period, does due process require clear and convincing evidence of unfitness or serious detriment, even if a later modification is theoretically available? The Court of Appeal answered no because the order was modifiable. That rule was presented, decided, and preserved. It warrants review.

(4) This Case Is an Ideal Vehicle, and the Questions Are Important

The federal questions appear on the face of the Court of Appeal's opinion and in the trial court record it affirmed. The March 20, 2023 transcript contains the court appointed evaluator's sworn concession concerning Mother's Elon Musk belief. App. H at 113a-114a. The May 24, 2023 Statement of Decision treated the same subject as "delusional thinking" and "psychosis," including Mother's December 24, 2020 email to the California State Bar that she had to "beg Elon for help." App. G at 79a. The July 13, 2023 Judgment applied § 3044, gave Father sole legal and physical custody, found that Mother continued to manifest a "major mental illness," and limited her to monitored contact. App. E at 47a. The February 21, 2025 orders renewed the § 3044 findings, suspended "all parenting time" "until further order

from the Court," ordered therapy for "mental health issues," and excluded Mother's evidence of Father's alleged violence and credibility. App. C.

The Court of Appeal decided the third question in so many words. It held *Santosky* "inapposite" because the order remained subject to modification. App. A at 13a-14a. It affirmed the exclusion of Officer Castillo and related evidence as previously adjudicated and "tenuous." App. A at 16a. It did not address Dr. Sheffner's concession. The Supreme Court of California denied review without opinion. App. B. The questions were presented, preserved, and are ready.

This petition presents three process questions.

First, what process is required when a court-appointed evaluator disavows under oath the premise of a diagnosis the courts later use to restrict parent-child contact.

Second, whether due process allows § 3044, as applied, to shift the burden against a parent on an adult to adult peace finding, while that parent's rebuttal and impeachment evidence is kept out, in a proceeding that ends all parental contact.

Third, whether an indefinite ban on all parent-child contact may avoid heightened proof merely because the order is called a modifiable "suspension."

Those questions reach past these two parties. States use appointed experts, domestic violence presumptions, and modifiable visitation orders every day. The decision below lets those tools meet in one place: an expert concession disavowing his own diagnosis, a one sided presumption, and a *Santosky* avoiding label.

Whether the Fourteenth Amendment allows this result is a question of national importance. The record is developed. The key testimony and orders are in the appendix. There is no vehicle problem that would keep the Court from stating a clear rule.

Certiorari is warranted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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