ORIGINAL

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No. _____

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SUPREME COURT, U.S.

In The Supreme Court of The United States

ANTONIO URENA INFANTE,

Petitioner,

v.

JENNIFER MENDOZA,

Respondent.

PETITION FOR A WRIT OF CERTORARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN

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Petitioner

QUESTIONS PRESENTED

California Family Code § 6306(a)(1) provides that, before issuing or denying a domestic violence restraining order, the trial court "shall ensure" that a criminal-history database search is conducted to determine whether the respondent has prior violent or serious felony convictions, specified domestic-violence offenses, outstanding warrants, firearm-related disqualifications, or prior restraining-order violations.

The California Court of Appeal held that although the record did not indicate whether the mandatory statutory search was conducted, any failure to comply with the statute was harmless because the court believed the outcome would likely have been the same.

The Questions Presented are:

1. Whether the Due Process Clause of the Fourteenth Amendment permits a state court to disregard a mandatory state-created procedural safeguard enacted to ensure accurate adjudication of proceedings affecting substantial liberty interests, including firearm rights, parental rights, and personal liberty.
2. Whether a state court may employ harmless-error review to excuse noncompliance with a mandatory statutory verification procedure specifically enacted to reduce the risk of erroneous factual determinations in proceedings

substantially dependent upon credibility findings and judicial assessments of future dangerousness.

LIST OF PARTIES and Related Actions

Petitioner Antonio Urena Infante was the defendant-appellant below.

Respondent Jennifer Mendoza was the plaintiff-respondent below.

There are no related actions.

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MISCELLANEOUS

Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 Hofstra L. Rev. 801 (1993) 8

In the Supreme Court of the United States
Petition for a Writ of Certiorari

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

OPINIONS BELOW

The unpublished opinion of the California Court of Appeal, Second Appellate District, Division Seven, may be found at 2026 Cal. App. Unpub. LEXIS 3226; 2026 LX 210328; 2026 WL 1298110 and is reproduced in the Appendix. The decision was issued in Case No. B340296. The order of the Supreme Court of California denying review is unpublished. It may be found at *Mendoza v. Infante*, 2026 Cal. LEXIS 4326, 2026 LX 418307 (Supreme Court of California. 2026) and in the appendix.

JURISDICTION

The California Court of Appeal entered judgment on May 12, 2026. The Supreme Court of California denied review on August 12, 2026. Jurisdiction is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Amendment XIV

"No State shall ... deprive any person of life, liberty, or property, without due process of law."

California Family Code § 6306(a)(1)

"Before a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has a prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified ..."

INTRODUCTION

This petition presents a recurring and important constitutional question concerning the effect of mandatory state-created procedural safeguards.

California enacted Family Code § 6306(a)(1) to ensure that domestic violence restraining order proceedings are adjudicated using verified criminal-history information rather than unsupported allegations. The Legislature made the procedure mandatory, requiring that courts "shall ensure" that a criminal-history search is conducted before adjudication.

The court below nevertheless held that even if this mandatory procedure was not followed, the violation was harmless because the appellate court concluded that the outcome likely would have been unchanged.

That ruling permits courts to disregard legislatively mandated safeguards specifically designed to improve adjudicative accuracy and then excuse noncompliance through hindsight-based harmless-error review.

The decision conflicts with this Court's decisions in *Hicks v. Oklahoma*, 447 U.S. 343 (1980), *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982), and *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Review is warranted.

STATEMENT OF THE CASE

Respondent sought a domestic violence restraining order against Petitioner.

As recognized by the Court of Appeal, Respondent alleged that Petitioner "does have a violent history and is a felon." Petitioner admitted a decades-old marijuana conviction but denied having a violent history.

California Family Code § 6306(a)(1) requires the trial court, before conducting a hearing on issuance or denial of a DVRO, to ensure that an official search has been conducted regarding the respondent's criminal history and related matters.

Following trial, the court issued a three-year domestic violence restraining order protecting Respondent, the parties' minor child, and Respondent's father. The court expressly found Respondent credible and Petitioner not credible.

On appeal, Petitioner argued that the trial court failed to comply with Family Code § 6306.

The Court of Appeal acknowledged: "The record does not indicate whether the trial court conducted a search of Infante's prior convictions, as section 6306, subdivision (a) requires."

The Court of Appeal nevertheless affirmed. First, it relied upon a presumption that trial courts ordinarily follow applicable law. Second, it held that

even if the statutory search had not been conducted, any error was harmless because Petitioner admitted a prior nonviolent felony conviction and because the court believed Respondent's evidence otherwise supported issuance of the DVRO.

The Supreme Court of California denied review. This petition followed.

REASONS FOR GRANTING THE WRIT

I. THE DECISION BELOW CONFLICTS WITH *HICKS v. OKLAHOMA AND LOGAN v. ZIMMERMAN BRUSH CO.*

This Court has repeatedly recognized that state-created procedural guarantees may create interests protected by the Due Process Clause.

In *Hicks v. Oklahoma*, this Court rejected an argument remarkably similar to the one adopted below. Although the state court believed the same result likely would have occurred, this Court held that a litigant possesses a substantial interest in having mandatory state procedures actually followed.

Likewise, in *Logan v. Zimmerman Brush Co.*, this Court held that a State may not extinguish rights through governmental failure to comply with mandatory procedural requirements established by state law.

Those precedents establish that when a State creates mandatory adjudicatory safeguards, courts may not simply disregard them.

California chose to require independent verification of criminal-history information before adjudication of domestic violence restraining order proceedings. The Legislature expressly directed that courts "shall ensure" compliance with that safeguard.

The Court of Appeal nevertheless held that compliance was ultimately unnecessary because the result likely would have been the same.

That reasoning cannot be reconciled with *Hicks* and *Logan*.

II. THE DECISION BELOW CONFLICTS WITH *MATHEWS v. ELDRIDGE*

Under *Mathews v. Eldridge*, procedural due process requires courts to evaluate:

1. The private interest affected;
2. The risk of erroneous deprivation created by existing procedures; and
3. The governmental burden associated with additional safeguards.

Each factor supports review.

A. Substantial Liberty Interests Are At Stake

A domestic violence restraining order carries profound consequences. Such orders affect firearm possession, custody determinations, visitation rights, residential access, future family-court proceedings, and significant liberty interests.

B. The Omitted Procedure Exists Specifically To Reduce Error

The purpose of Family Code § 6306 is straightforward. The Legislature determined that allegations concerning violent criminal history, prior restraining-order violations, parole status, warrants, firearm possession, and related issues should be verified through objective government records before adjudication.

The omitted procedure therefore directly targets the risk of erroneous decision-making.

C. Compliance Creates Virtually No Burden

The State already requires the search. Compliance imposes no meaningful additional burden.

Under *Mathews*, the constitutional balance strongly favors adherence to the safeguard.

III. THE COURT OF APPEAL IMPROPERLY REPLACED THE LEGISLATURE'S JUDGMENT WITH ITS OWN

The Legislature determined that objective verification of criminal-history information is important enough to require in every covered proceeding.

The Court of Appeal reached the opposite conclusion. According to the court below, a search confirming the absence of a violent criminal history would not likely have altered the outcome.

But that determination belongs to the Legislature, not to an appellate court applying hindsight.

Family Code § 6306 requires courts to determine whether the respondent possesses:

- violent-felony convictions;
- serious-felony convictions;
- qualifying domestic-violence convictions;
- outstanding warrants;
- parole or probation status;
- firearm-related disqualifications;

- prior restraining orders; and
- prior restraining-order violations.

The Legislature plainly concluded that these facts matter. The Court of Appeal effectively rendered the statute optional.

IV. THE ERROR WAS ESPECIALLY SIGNIFICANT BECAUSE THE CASE TURNED ON CREDIBILITY

The trial court expressly based its ruling on credibility determinations. It found Respondent credible and Petitioner not credible.

The mandatory search existed precisely to prevent credibility assessments from being influenced by unverified allegations concerning criminal history.

Respondent alleged that Petitioner was a felon with a violent history. Petitioner denied possessing any violent criminal history.

Objective verification through official databases would have resolved that issue using neutral governmental records rather than litigant accusations.

Where a proceeding turns on credibility, appellate courts cannot confidently determine how verification of disputed allegations would have influenced the trial court's perception of dangerousness, trustworthiness, or future risk.

The Court of Appeal's harmless-error analysis therefore rests upon speculation.

V. THE DECISION BELOW CONFLICTS WITH DECISIONS OF THIS COURT AND SATISFIES SUPREME COURT RULE 10(c)

Review is warranted under Rule 10(c) because the decision below conflicts with decisions of this Court.

The Court of Appeal treated a mandatory state-created procedural safeguard as unenforceable whenever a reviewing court later concludes that compliance would not have mattered.

That rationale directly conflicts with *Hicks*, where this Court rejected retrospective judicial speculation as a substitute for compliance with mandatory procedures.

It likewise conflicts with *Logan*, which prohibits governmental disregard of mandatory adjudicatory procedures.

Finally, it conflicts with *Mathews*, which emphasizes the importance of procedures specifically designed to reduce the risk of erroneous deprivation.

This case therefore presents a substantial federal question warranting the exercise of this Court's certiorari jurisdiction.

VI. THIS CASE PRESENTS AN IMPORTANT AND RECURRING QUESTION OF NATIONAL IMPORTANCE

Protective-order proceedings exist in every State. Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 Hofstra L. Rev. 801, 810 (1993). Legislatures increasingly require courts to consult criminal-history databases, firearm-

disqualification records, protective-order registries, and similar information systems before adjudication. See *Id.* at 1172.

California's verification requirement reflects a broader national movement toward data-driven procedural safeguards designed to improve adjudicative accuracy.

The decision below threatens those safeguards. If courts may disregard mandatory verification procedures and later excuse noncompliance through harmless-error review, statutory protections become largely unenforceable.

The question presented therefore extends far beyond California.

VII. THIS CASE PRESENTS AN IDEAL VEHICLE FOR CLARIFYING *HICKS, LOGAN,* AND *MATHEWS* IN THE CONTEXT OF MODERN PROTECTIVE-ORDER PROCEEDINGS

This case is an unusually suitable vehicle.

The federal issue was preserved. The California Court of Appeal expressly addressed the issue and expressly held that any failure to conduct the statutory search was harmless. No additional factual development is necessary.

No procedural complications obscure the constitutional question. The issue is pure, cleanly presented, and outcome-determinative. This Court can therefore provide needed guidance concerning the constitutional status of mandatory procedural safeguards in modern protective-order proceedings.

CONCLUSION

California determined that objective verification of criminal-history information is essential to the fair and accurate adjudication of domestic violence restraining-order proceedings.

To protect that interest, the Legislature enacted a mandatory verification procedure and directed courts to ensure compliance before adjudication.

The decision below permits courts to disregard that procedure and then excuse noncompliance through retrospective harmless-error review.

That holding conflicts with *Hicks v. Oklahoma*, *Logan v. Zimmerman Brush Co.*, and *Mathews v. Eldridge*, presents an important and recurring question regarding procedural due process, and threatens to undermine legislatively mandated safeguards designed to prevent erroneous deprivation of substantial liberty interests.

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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