No. _____

In the Supreme Court of the United States

EMILY BICKFORD,
PETITIONER,
v.
MATTHEW BRADEEN,
RESPONDENT.

On Petition for Writ of Certiorari to the Supreme Judicial Court of Maine

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A parent has a fundamental right under the Free Exercise and Due Process Clauses to direct her child's religious upbringing. In resolving a religious disagreement between two fit parents, a state court barred a fit mother from taking her child to any church, religious organization or event, including "exposure to the teachings of any religious philosophy or of the Bible in general" without the father's consent, thus giving the father final authority over any "teachings * * * of the Bible."

Many state courts hold that an order restricting a fit parent's religious exercise with her child must satisfy strict scrutiny or, at minimum, be supported by an evidentiary showing of substantial harm to the child. The Supreme Judicial Court of Maine diverged, holding that the best-interest-of-the-child standard governs because the order merely allocates decision-making authority between two parents who disagree over religion. The questions presented are:

1. Whether a state court order prohibiting a fit parent from practicing her faith with her child during her custodial time, including attending any church, religious organization or event, or even exposure to the teachings of any religious philosophy or the Bible in general, is subject to strict scrutiny under the Free Exercise and Due Process Clauses, or whether the court may subordinate a parent's fundamental right to religious exercise to a subjective best-interests determination when the parents disagree about religion.

2. Whether a custody order violates the Free Exercise Clause pursuant to *Masterpiece Cakeshop* v. *Colorado Civil Rights Commission*, 584 U.S. 617 (2018), when it prohibits a fit parent from exercising her Christian faith with her child and demonstrates disagreement at best, or hostility at worst, about Christian doctrine and viewpoints.

PARTIES TO THE PROCEEDING

Petitioner Emily A. Bickford was the plaintiff in the District Court and the appellant in the Supreme Judicial Court of Maine. Respondent Matthew A. Bradeen was the defendant in the District Court and the appellee in the Supreme Judicial Court of Maine.

RELATED PROCEEDINGS

Supreme Judicial Court of Maine:

Bickford v. *Bradeen*, No. Cum-25-29 (Sept. 1, 2026)

Maine District Court, Portland:

Bickford v. *Bradeen*, No. FM-2013-604 (Dec. 16, 2024)

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PETITION FOR A WRIT OF CERTIORARI

Emily Bickford petitions for a writ of certiorari to review the judgment of the Supreme Judicial Court of Maine.

OPINIONS BELOW

The opinion of the Supreme Judicial Court of Maine (Pet. App. 1a–31a) is reported at 2026 ME 94. The order of the Maine District Court (Pet. App. 34a–65a) is unreported.

JURISDICTION

The Supreme Judicial Court of Maine entered its judgment on September 1, 2026. Pet. App. 1a. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Fourteenth Amendment provides: "nor shall any State deprive any person of life, liberty, or property, without due process of law."

The relevant provisions of Me. Rev. Stat. Ann. tit. 19-A, §§ 1501, 1651, and 1653 are reproduced at Pet. App. 70a–78a.

INTRODUCTION

The Constitution protects no liberty more sacred than a parent's right to guide the spiritual development of her child. For over half a century, this Court has recognized that state action intruding on that fundamental right must withstand strict scrutiny. *Wisconsin* v. *Yoder*, 406 U.S. 205, 233 (1972). But the Court has not yet addressed whether that heightened protection applies to a custody dispute between two parents about their child's religious upbringing.

Setting aside its own precedent, the Supreme Judicial Court of Maine, sitting as the Law Court, held that a parent's right to direct her child's religious upbringing is merely a "shared right" with the co-parent, and that strict scrutiny "does not apply to allocations of parental rights between a child's parents." Pet. App. 15a, 17a. On that rationale, the court affirmed an order that grants the father unilateral authority to prohibit the mother, a fit parent, from taking her child to her church, and veto power over her taking the child to any church, religious organization or event, including "exposure to the teachings of any religious philosophy or of the Bible in general." Pet. App. 63a. Because the father has ultimate decision-making authority backed by the contempt power of the court, the order operates as a state-enforced ban on the mother's exercise of her faith with her daughter, even during her own parenting time.

The decision below deepens an acknowledged split among state courts of last resort. As the Law Court conceded, "some state courts have concluded otherwise and held that certain allocations of religious authority must be subject to strict scrutiny." Pet. App. 22a n.11. The Utah Supreme Court held that strict

scrutiny applies to orders that "go beyond this allocation to restrict a parent's fundamental right to encourage his or her children in the practice of religion." *Kingston* v. *Kingston*, 532 P.3d 958, 971 (2022). The Nebraska Supreme Court similarly held that a parent may not prevent the other parent from involving the children in church activities during parenting time absent "an immediate and substantial threat to a child's temporal well-being," and then only by "the least possible intrusion upon the constitutionally protected interests of the parent." *Munsell* v. *Munsell*, 321 Neb. 363, 376 (2026) (citation omitted). Intermediate courts likewise apply strict scrutiny. See, *e.g.*, *In re Marriage of McSoud*, 131 P.3d 1208 (Colo. App. 2006); *In re Marriage of Murga*, 103 Cal. App. 3d 498 (1980); *Zummo* v. *Zummo*, 394 Pa. Super. 30 (1990).

Until the decision below, no state court of last resort had ever sustained a total prohibition on a fit parent's religious exercise with her child under the best-interest standard. Maine stands isolated. A parent's ability to take her child to church during her own parenting time now depends on the State in which she lives.

The conflict is also broader than acknowledged. The highest courts of New Hampshire, Massachusetts, Ohio, Mississippi, and Washington likewise forbid courts to restrict a parent's religious practice with her child absent proof of substantial harm. See, *e.g.*, *In re Kurowski*, 161 N.H. 578 (2011); *Kendall* v. *Kendall*, 426 Mass. 238 (1997); *Pater* v. *Pater*, 63 Ohio St. 3d 393 (1992); *Harris* v. *Harris*, 343 So. 2d 762, 764 (Miss. 1977); *Munoz* v. *Munoz*, 79 Wash. 2d 810, 813–15 (1971).

The rule below also conflicts with this Court's decisions. Because the order restricts the mother's

religious exercise with her child, it can be upheld only if it is narrowly tailored to further a compelling government interest. *Mahmoud* v. *Taylor*, 606 U.S. 522, 564–65 (2025). The Law Court took a different approach, reasoning that an order allocating decision-making authority between parents "is not a state intrusion" on what it described as a "shared right" to direct their child's religious upbringing. Pet. App. 17a. That rationale is indefensible. Over forty years ago, this Court settled that custody orders between parents constitute state action subject to federal constitutional limits. *Palmore* v. *Sidoti*, 466 U.S. 429, 432–34 (1984). Under the Law Court's rule, the heightened constitutional protections required by *Yoder* and *Mahmoud* effectively vanish the moment a co-parent invokes the coercive power of a state court to resolve a disagreement about the other parent's religious beliefs.

Only this Court can resolve the conflict. Because jurisdictional doctrines preclude lower federal courts from reviewing state custody orders or intervening in domestic-relations matters, see *Ankenbrandt* v. *Richards*, 504 U.S. 689, 703–04 (1992), and *Exxon Mobil Corp.* v. *Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005), the divergence among state courts will otherwise persist uncorrected.

This case presents the questions cleanly. Petitioner challenges the unconstitutional restraints the order places on her own worship with her daughter during her own parenting time. The Law Court decided her First and Fourteenth Amendment claim on federal grounds alone, Pet. App. 13a n.5, and its passing observation that the order would survive strict scrutiny is a reviewable determination, Pet. App. 29a n.15.

STATEMENT OF THE CASE

A. Legal Background

Maine law establishes that parents are "the joint natural guardians of their minor children," and provides that "[n]either parent has any rights paramount to the rights of the other with reference to any matter affecting their children." Me. Rev. Stat. Ann. tit. 19-A, § 1651. In domestic-relations proceedings, state courts are authorized to allocate parental rights and responsibilities—including decisions regarding a child's "religious upbringing"—either "exclusively or proportionately." *Id.* § 1501(1). Courts ordinarily make that division by applying the multi-factor "best interest of the child" standard. *Id.* § 1653(3).

For four decades, however, Maine law placed a firm evidentiary threshold on orders restricting a parent's religious practice. In *Osier* v. *Osier*, 410 A.2d 1027 (Me. 1980), the Maine Supreme Judicial Court stated that a court may restrict a parent's religious direction of her child only upon proving that "an immediate and substantial threat to the child's well-being is posed by the religious practice in question." *Id.* at 1031. Even upon such a showing, the trial court should adopt "a means of protecting the best interests of the child that makes the least possible intrusion upon the constitutionally protected interests of the parent." *Id.* In the decision below, the Law Court dismissed *Osier*'s least-intrusive-means requirement as dictum, effectively overruled *Osier*, and removed heightened scrutiny from custody orders burdening religious exercise. Pet. App. 18a–23a.

B. Factual Background

1. Emily Bickford and Matthew Bradeen are the parents of a daughter born in January 2013. Pet. App. 2a. Never married, the parents separated before the child's birth. Pet. App. 36a. In 2013, the Maine District Court entered an agreed order establishing shared parental rights and responsibilities, designating the child's religious upbringing as a decision the parents would make together. Pet. App. 2a, 66a–67a, 82a–83a. Under this framework, the child resides with each parent on an equal half-time schedule. Pet. App. 36a, 69a, 80a.

Neither parent has ever been found to be unfit. The trial court found that "[b]oth parents love [the child] tremendously." Pet. App. 36a. Bradeen confirmed that Bickford is "a loving mother," testifying: "I have no problem with Emily's parenting.... She's a good parent. She's a good mom." Pet. App. 84a–85a.

2. The parties' cooperative arrangement lasted for over eight years. In May 2021, Bickford began attending Calvary Chapel Greater Portland, a nondenominational Christian church. Pet. App. 95a–96a, 102a–103a. Like most Biblically based churches, Calvary Chapel teaches about the Fall of Man, spiritual warfare, and the eternal consequences of rejecting God. Pet. App. 107a, 108a, 114a.

In September 2021, Bradeen moved to modify the custodial order, alleging that Bickford had engaged the child in religious activities without his knowledge or assent. Pet. App. 3a. Bradeen, who described himself as non-religious, testified that he did not object to religion in the abstract, but objected specifically to Calvary Chapel and to Bickford's decision to worship there with their daughter. Pet. App. 83a, 90a–91a,

94a–95a. He asked the court to allocate to him sole responsibility for the child's religious upbringing. Pet. App. 3a.

In August 2024, the District Court held a two-day hearing about the allocation of religious and medical decision-making. Pet. App. 4a, 35a. During the hearing, Bradeen testified about his observations of the child's thoughts on Heaven, Hell, and the Rapture, and claimed that the child was worried about who in the family would be saved. Pet. App. 83a. He testified that he had seen her "have panic attacks when no one's home." Pet. App. 83a–84a.

Bradeen testified that the perceived connection between the child's worries and Calvary Chapel's teachings was his own "attribution," not a professional's. Pet. App. 90a. No medical records, school reports, or clinical evaluations indicating psychological harm were introduced into the record. Pet. App. 89a–90a, 100a. Bradeen acknowledged that he had never sought counseling for the child and was unaware of any counselor treating her. Pet. App. 89a–90a. Bickford said she never saw her daughter have any panic attack. Pet. App. 96a, 98a. They both testified their daughter was a high achiever academically, involved in many sports activities, well adjusted, loving, and outgoing. Pet. App. 80a–81a, 85a–86a, 89a–90a, 93a–94a, 95a, 97a, 98a.

Bradeen presented the testimony of Dr. Janja Lalich, a so-called expert on "cults." Pet. App. 40a, 98a–99a. Dr. Lalich testified that it was "inappropriate" for the child to study the Bible because the church's teachings are "hateful and fearful and anxiety producing"—even as she professed to have "no opinion on the Bible, per se." Pet. App. 101a. She condemned the church's midweek services, where adults share

testimonies of redemption, as "completely inappropriate for a young child," Pet. App. 101a, and testified, "I don't think a child should ever be exposed to those things," Pet. App. 102a. Although Dr. Lalich never met, interviewed, or evaluated the child, Pet. App. 100a, the court fully credited her testimony, accepting her view that "the potential that [the child] will be harmed by the messages she is receiving is 'evident.'" Pet. App. 42a, 99a.

3. In December 2024, the District Court issued an order stripping Bickford of her authority over the child's religious upbringing and placing final decision-making authority in Bradeen. Pet. App. 63a–64a. The order rendered "god" in lowercase all nineteen times the word appears. Pet. App. 37a–38a, 42a, 46a, 48a–50a.[1] Although the court found "no showing of harm to [the child] associated with a belief system that is rooted in the Bible," Pet. App. 62a, the court accepted Bradeen's testimony—without further corroboration—that "[the child] has had panic attacks in Mr. Bradeen's presence when talking about this subject," Pet. App. 38a. Further evidence of "fear and anxiety," the court found, was Bradeen's testimony that the child "leaves notes around Mr. Bradeen's house for him to find because she believes that the rapture will be coming soon, and she is concerned that he will be left behind." Pet. App. 38a.

The District Court also found that Calvary Chapel's pastor, Travis Carey, "is consistently delivering vivid images of violence, eternal suffering at the

[1] Bradeen's brief below quoted the order but capitalized "God" throughout without noting the alteration, thereby misquoting the order. Appellee Br. 16–18 (quoting RA 33–35); see *id.* at 8, 10, 12–13.

hands of the 'enemy,' and characterizations of those who challenge the church's beliefs—including Mr. Bradeen—as the 'enemy.'" Pet. App. 59a. The court catalogued what it characterized as Calvary Chapel's doctrine, finding objectionable sermons containing "messages about warfare, fallen angels, and eternal suffering"; a pastor who "preaches a vivid description of hell," including "the 'wailing and gnashing of teeth,' 'burning and torment,' and 'perpetual pain and regret'"; instruction "that people can only be saved by meeting god on god's terms"; teaching "that there will be a second coming of Christ, which will involve seven years of hell on earth under the reign of the 'beast'"; and a children's curriculum displaying depictions of "fallen angels." Pet. App. 37a–38a. The court concluded—based on Bradeen's testimony—that such "messaging" could cause "objective manifestations of anxiety." Pet. App. 59a.

The District Court similarly misapprehended a brief pastoral prayer offered at a midweek service, interpreting it as a personal attack designating Bradeen as "the enemy." Pet. App. 46a–51a. In reality, the prayer identified "the enemy" solely in the traditional Christian sense referring to Satan, not Bradeen. Recalling that throughout "church history," "as the enemy seeks to * * * crush and, and quench, and strangle the church, the church grows through it," the pastor simply petitioned God to "bring to nothing the plans and the snares and the tricks of the enemy." Pet. App. 49a–50a.

The District Court awarded Bradeen sole authority "to make decisions regarding whether [the child] attends any services, gatherings, or events associated with Calvary Chapel; whether and what material, literature, video, or other messaging associated with, or

created or published by, Calvary Chapel she reviews; and whether she associates or communicates with any member of Calvary Chapel[.]" Pet. App. 63a. The order further provided that if the parents disagreed, Bradeen held final veto power over the child's participation in any church, religious organization, or event, as well as her "exposure to the teachings of any religious philosophy or of the Bible in general." Pet. App. 63a.

4. Sitting as the Law Court, the Maine Supreme Judicial Court affirmed the District Court's decision. Pet. App. 31a.

Bickford argued on appeal that prohibiting a fit parent from worshipping with her child at her own church during her own custodial time burdens her fundamental rights under the Free Exercise and Due Process Clauses and that such an order requires strict scrutiny. Bickford also argued that, consistent with many state court opinions where two parents disagree over religion, absent direct and immediate demonstrable harm, each parent has the right to attend a church of their choice or expose their child to religious teachings or the Bible while the child is in their custody. Pet. App. 13a–15a; Appellant's Br. 34–35.

The Law Court rejected those arguments, holding that "strict scrutiny does not apply to allocations of parental rights between a child's parents." Pet. App. 15a. Instead, the court concluded that trial courts "may always use the best-interest standard to allocate parental rights between two parents." Pet. App. 14a.

The Law Court reasoned that a judicial decision allocating parental rights between two parents "is not a state intrusion into, and does not infringe upon, [the parents'] shared right to make decisions concerning

their children." Pet. App. 17a. The court held that "[a]n allocation of rights to one parent inherently limits the authority of the other but does not necessarily infringe upon the constitutional rights of either parent." Pet. App. 16a. The court held that state custody orders restricting a parent's religious exercise are governed exclusively by the ordinary best-interest standard. Pet. App. 21a–23a.

REASONS FOR GRANTING THE PETITION

Under the Free Exercise and Due Process Clauses, each parent has a fundamental right to practice their faith with their child. And that right cannot be infringed by a court order without satisfying strict scrutiny.

The Supreme Judicial Court of Maine displaced the Free Exercise Clause with the statutory "best interests of the child" standard. To reach that result, the Law Court effectively overruled *Osier* v. *Osier*, 410 A.2d 1027 (Me. 1980), on which the District Court relied to hold that strict scrutiny applies. Pet. App. 14a–15a, 18a–23a, 55a–57a. The Law Court acknowledged that state courts divide over the level of scrutiny that governs a court-imposed restriction on a parent's religious practice with her child. That level of scrutiny should not vary across state lines.

I. Maine's newly minted rejection of strict scrutiny when a parent is deprived of the free exercise of religion conflicts with multiple state courts.

The decision below deepens a conflict that the Law Court itself identified: Several courts require strict scrutiny or its equivalent, and Maine requires only the child's best interest. The conflict is broader than

the Law Court noted, as intermediate appellate courts in three more States apply the same rule. The Law Court recognized that "some state courts have concluded otherwise and held that certain allocations of religious authority must be subject to strict scrutiny," Pet. App. 22a n.11, but declined to follow them because "they do not explain why a restriction on religious parental rights would trigger strict scrutiny while a restriction on any other aspect of a parent's fundamental rights does not," *id*. As a result, the outcome of this case would have been different had it arisen in one of those other jurisdictions.

A. Several state supreme courts have subjected an order restricting a parent's own religious exercise with the child to strict scrutiny or its equivalent.

1. State courts of last resort directly contradict the Law Court's approach. These courts recognize that judicial orders restricting a fit parent's religious practice are subject to strict scrutiny.

The Utah Supreme Court explicitly applies strict scrutiny to judicial orders that restrict a parent's religious exercise. In *Kingston* v. *Kingston*, 532 P.3d 958 (2022), the court held that while the best-interest standard governs the initial allocation of legal custody, "strict scrutiny applies to court orders that go beyond this allocation to restrict a parent's fundamental right to encourage his or her children in the practice of religion." *Id.* at 971. Grounding its decision directly in the Due Process Clause, the court invalidated an order that gave the mother sole legal custody and barred the father from encouraging the children "to adopt the teachings of any religion" without the mother's consent. *Id.* at 962, 964–65. The father

belonged to a polygamous religious community, and the trial court found that the group promoted the grooming of young girls and demonized former members. *Id.* at 962–63. Although the court accepted the protection of children from those harms as a compelling interest, *id.* at 974, the order failed narrow tailoring because it barred the father even from "teaching the children the Lord's Prayer." *Id.* at 974–75. Because the restriction burdened the father's "exercise of his physical custody" without narrow tailoring or a compelling showing of specific harm, the order could not stand. *Id.* at 970, 974–75. Significantly, the father in *Kingston* had lost legal custody entirely. *Id.* at 963. Here, by contrast, Bickford retains shared parental rights and responsibilities. Pet. App. 63a.

Kingston also rejected the notion that a court may restrict a parent's religious exercise simply to spare a child exposure to two faiths. Surveying decisions from other States, the court explained that "the vast majority" have concluded that each parent "must be free to provide religious exposure and instruction, as that parent sees fit, during any and all period of legal custody or visitation without restriction, unless the challenged beliefs or conduct of the parent are demonstrated to present a substantial threat of present or future, physical or emotional harm to the child in absence of the proposed restriction." 532 P.3d at 974 (quoting *Zummo* v. *Zummo*, 394 Pa. Super. 30, 78 (1990)); see *id.* at 973 (discussing *Zummo* and *In re Marriage of Murga*, 103 Cal. App. 3d 498 (1980)).

The Nebraska Supreme Court applies the same demanding baseline under the Free Exercise Clause. In *Munsell* v. *Munsell*, 321 Neb. 363 (2026), the court observed that "the state-law right of a legal custodian to make fundamental decisions about a child's

educational and religious upbringing can conflict with the noncustodial parent's fundamental right to influence the religious upbringing of the child during his or her parenting time." *Id.* at 375. The court noted that this Court "has not weighed in on the difficult question of how to properly balance these conflicting rights in the context of divorce proceedings, particularly where divorcing parents disagree about their child's religious upbringing." *Ibid.* The court affirmed that where one parent holds sole legal custody—including authority over religious decision-making—a court may not restrict the other parent from involving the children in religious activities during custodial time unless "particular religious practices pose an immediate and substantial threat to a child's temporal well-being." *Id.* at 376 (quoting *LeDoux* v. *LeDoux*, 234 Neb. 479, 486 (1990)). The court emphasized that any judicial order must constitute "the least possible intrusion upon the constitutionally protected interests of the parent"—a direct formulation of strict scrutiny's narrow-tailoring requirement. *Id.* (quoting *LeDoux*, 234 Neb. at 486).

The Nebraska Supreme Court rejected the precise maneuver that the Law Court executed here. In *Munsell*, the trial court had empowered a sole legal custodian to veto the other parent's choice of church activities during his own parenting time. 321 Neb. at 378. The Nebraska Supreme Court struck that veto, holding that a custodial allocation cannot strip a fit noncustodial parent of the "fundamental right to continue to influence the religious upbringing of the children during his parenting time." *Id*. The court rested on the premise the Law Court rejected: that "fit parents—whether married or not—have fundamental

constitutional rights to direct the religious upbringing of their child." *Id.* at 374.

The Supreme Court of Mississippi reached a similar result even when confronted with a faith tradition involving snake handling. In *Harris* v. *Harris*, *supra*, the trial court transferred custody to the father solely because the mother belonged to a Free Will Holiness Pentecostal church that practiced snake handling—despite expressly finding her to be "a fit and proper person in every respect." 343 So. 2d at 763. Although it did not reference strict scrutiny, the Supreme Court of Mississippi reversed, holding that the judiciary lacks authority "to dictate to [a parent] what religion she should teach her child" absent concrete proof of actual physical danger. *Id.* at 764. Emphasizing that the First Amendment guarantees "[t]he free and undisturbed enjoyment of religious opinion, whatever it may be," the court held that while state power may extend to protecting a child from tangible harm, the record contained "no proof" that the child was exposed to snake handling during services. *Ibid.* The court restored custody to the mother, limiting judicial intervention exclusively to the specific physical hazard. *Id.* at 762, 764.

At least three state high courts—Utah, Nebraska, and Mississippi—have directly rejected the legal position that the Maine Supreme Judicial Court took in this case. As a result, there is a square split of authority on the question presented that only this Court can resolve.

2. Other state courts of last resort likewise reject the Law Court's newly minted premise, holding that courts lack authority to restrict a parent's fundamental right to worship with her child absent clear, demonstrated evidence of substantial harm—

essentially a formulation of strict scrutiny's "compelling interest."

The Supreme Court of Ohio explicitly bars judicial interference with a parent's religious exercise without a concrete showing of direct injury to the child. In *Pater* v. *Pater*, 63 Ohio St. 3d 393 (1992), the court held that a state court "may not restrict a non-custodial parent's right to expose his or her child to religious beliefs, unless the conflict between the parents' religious beliefs is affecting the child's general welfare." *Id.* at 401. Grounding its decision in constitutional protections, the court reversed a trial court order that impermissibly swept "so broad[ly] that it could be construed as forbidding any discussion of the Bible." *Id.*

The Supreme Judicial Court of Massachusetts similarly requires a strict evidentiary bar. Recognizing that "the 'wholly uncorroborated testimony' of a parent was insufficient to demonstrate harm," *Kendall* v. *Kendall*, 426 Mass. 238, 243 (1997) (citing *Felton* v. *Felton*, 383 Mass. 232, 242 (1981)), the court held that judicial restrictions on a parent's religious exercise require "clear evidence of substantial harm," *id.* at 244; see also *Felton*, 383 Mass. at 233–34 (holding that "harm to the child from conflicting religious instructions or practices * * * should not be simply assumed or surmised; it must be demonstrated in detail").

The Supreme Court of Washington similarly holds that courts "should not * * * restrain any person having custody or visitation rights from taking the children to a particular church, except where there is *a clear and affirmative showing* that the conflicting religious beliefs affect the general welfare of the child." *Munoz* v. *Munoz*, 79 Wash. 2d 810, 813 (1971) (emphasis added). There, the trial court awarded the mother, a member of the Church of Jesus Christ of

Latter-day Saints, sole control over the children's religious training and forbade their Catholic father to take them to Catholic services or instruction during visitation, reasoning that exposure to two faiths would confuse them. 79 Wash. 2d at 811–12, 814. The Supreme Court of Washington reversed, declining to presume, "in absence of evidence to the contrary," that a "duality of religious beliefs, per se, creates a conflict upon young minds," *id.* at 815.

The New Hampshire Supreme Court likewise holds that a trial court "can restrict a parent's religious training of his or her child only if *substantial evidence* shows that the child's welfare was *in fact* jeopardized by that religious training." *In re Kurowski*, 161 N.H. 578, 595 (2011) (emphasis added).

Until the decision below, Maine's highest court stood squarely within this consensus, requiring proof of an "immediate and substantial threat to the child's well-being" before a court could interfere with a parent's religious practice. *Osier*, 410 A.2d at 1031. By setting aside *Osier* and authorizing state judges to strip a fit parent of her religious authority under a free-floating best-interest analysis, Pet. App. 18a–23a, the Law Court abandoned a settled constitutional baseline and deepened a split among state courts.

B. Intermediate appellate courts in three more States apply strict or heightened scrutiny.

The Colorado Court of Appeals affirmed that "[g]overnmental interference with the constitutional rights of a fit, legal parent is subject to strict scrutiny." *In re Marriage of McSoud*, 131 P.3d 1208, 1216 (Colo. App. 2006). The court thus held that when an

order "goes beyond allocating sole decision making over the child's religious upbringing and otherwise restricts either parent's right to expose the child to that parent's religious beliefs or to practice that parent's religion," the court "must find a compelling state interest in the form of avoiding substantial emotional or physical harm to the child." 131 P.3d at 1217. Treating the custody order as state action, the court invalidated a condition on the mother's right to take the child to her own church, finding no authority permitting a court to deprive her of that right "for any reason other than substantial physical or emotional harm to the child from attendance at that church." *Id.* at 1220.

The Pennsylvania Superior Court applied strict scrutiny under *Yoder* to a religious upbringing dispute between separated parents, vacating an order that barred a father from taking his children to religious services during his custodial time. *Zummo* v. *Zummo*, 394 Pa. Super. 30, 51 (1990). Citing a line of this Court's decisions, the court observed that restrictions on a parent's religious direction of a child "may only be taken in support of countervailing interests of the highest order, and then only in the least intrusive manner adequate to safeguard the specific interests identified." *Id.* at 40. The court directly rejected the flawed premise adopted by the Law Court below, finding "no reason to treat such disagreements between divorced parents differently," because each individual parent "has parental authority during lawful periods of custody or visitation." *Id.* at 49.

The California Court of Appeal likewise refuses to "restrain the noncustodial parent from exposing the minor child to his or her religious beliefs and practices, absent a clear, affirmative showing that these religious activities will be harmful to the child," a rule

it attributed to "the majority of American jurisdictions that have considered the question." *Murga*, 103 Cal. App. 3d at 504–05; see *Kingston*, 532 P.3d at 973 (describing *Murga*'s test as "almost identical" to strict scrutiny).

C. The Supreme Judicial Court of Maine treats restrictions on a parent's religious exercise with the child as mere "allocations of parental rights" governed only by the best-interest standard.

Departing from settled constitutional principles, the Law Court declared that strict scrutiny "does not apply to allocations of parental rights between a child's parents," that judicial reallocations carry "no state intrusion," and that the best-interest standard governs "regardless whether the court's allocation implicates the religious beliefs of one parent or the other." Pet. App. 15a, 17a, 22a.

The order below, however, goes far beyond a routine allocation of parental decision-making authority. It directly prohibits a *fit* mother's religious practice during her own parenting time. The order gives Bradeen unilateral authority to prohibit the child from attending Bickford's church, reviewing its materials, or communicating with any member of her congregation—without exception when the child is in Bickford's lawful custody. Pet. App. 63a.

The order's fallback provision confirms this sweeping prohibition. Because Bradeen holds final veto power over any disagreement regarding participation in other places of worship, religious organizations, events, or "exposure to the teachings of any religious philosophy or of the Bible in general," the order operates as an absolute state-enforced ban on Bickford's

ability to practice her faith with her daughter. Pet. App. 63a. The order's requirement that the parties "jointly research" alternative places of worship evaporates the moment the parents disagree, leaving Bradeen as the sole arbiter of the child's religious life.

The Law Court attempted to minimize this constitutional intrusion by asserting that it was simply "join[ing] other courts" in holding that "the Constitution does not prohibit a court from allocating authority between two parents according to the best interest of the child." Pet. App. 22a. But that formulation reframes the question and conflates two distinct categories of judicial action. Bickford does not dispute that state courts may apply the best-interest standard to resolve a single, deadlocked impasse when joint custodians cannot agree on an overarching decision. The decisions cited by the Law Court did precisely that: breaking specific impasses over schooling or medical vaccinations without infringing upon either parent's independent religious exercise during custodial time. See, *e.g.*, *Kelley* v. *Kelley*, 535 P.3d 1147, 1151 (Nev. 2023); *Young* v. *Holmes*, 295 S.W.3d 144, 146–47 (Ky. Ct. App. 2009); *Yordy* v. *Osterman*, 149 P.3d 874, 875–76 (Kan. Ct. App. 2007); *Dutchess* v. *Dutch*, 2022 WL 701866, at *3 (Alaska Mar. 9, 2022) (unpublished) (upholding an order as "extremely narrowly tailored" because it was strictly "limited * * * to authority to make vaccination decisions"). None of those decisions authorized a court to censor what a fit parent may teach about religion or practice with her child during her own custodial time.

Crucially, the primary authority that the Law Court relied on contradicts its holding and supports Bickford. In *Kurowski*, the New Hampshire Supreme Court applied the best-interest standard to break a

discrete impasse over whether a child would attend public school or be homeschooled, emphasizing that the order "did not impose any restrictions on either parent's ability to provide daughter with religious training or to share with daughter his or her own religious beliefs." 161 N.H. at 597. To be sure, the court held that although the best-interest standard cannot abrogate a fit parent's rights, trial courts may apply that standard without triggering strict scrutiny to resolve irreconcilable parenting impasses between two fit parents, even when the dispute involves fundamental decisions about education and religious upbringing. *Id.* at 590. When addressing direct judicial restrictions on custodial religious exercise, however, *Kurowski* reaffirmed that judicial interference with a parent's religious upbringing requires substantial record evidence that the specific religious practices jeopardize the child. See *id.* at 595; see also *Chandler* v. *Bishop*, 142 N.H. 404, 413 (1997) (holding that courts "cannot enjoin non-custodial parents from exposing their children to their faith during visitation periods absent an affirmative showing of harm to the children").

The Law Court's other authorities likewise resolved school and vaccination impasses without restricting either parent's religious exercise. See, *e.g.*, *Kelley*, 535 P.3d at 1151; *Young*, 295 S.W.3d at 146–47 (where the concurring judge stressed that the child would still "worship at the church she attends" every other Sunday and that "[b]oth parents will have the opportunity to teach their son about the richness of their particular faith tradition," *id.* at 147–48 (Wine, J., concurring in result)); *Yordy*, 149 P.3d at 875–76; *Dutchess*, 2022 WL 701866, at *3. Not one of the

courts Maine allegedly "joined" approved an order like the one entered here.

The Law Court took another remarkable turn. To clear the path for its holding, the court set aside its longstanding precedent in *Osier*, 410 A.2d at 1031, which required proof of an "immediate and substantial threat to the child's well-being" and the "least possible intrusion" before a court could restrict a parent's religious practice. The Law Court dismissed *Osier*'s constitutional protections as mere "dictum" unnecessary to that case's outcome, and observed that *Osier* emerged from an outdated legal era of binary "custody" determinations rather than modern statutory parsing of "parental rights and responsibilities." Pet. App. 19a–21a. By casting aside its own precedent, the Law Court dismantled the only meaningful shield protecting the religious exercise of fit parents in Maine, leaving fundamental First Amendment liberties entirely at the mercy of a trial court's unguided discretion.

* * *

Purporting to join the New Hampshire Supreme Court, the Supreme Judicial Court of Maine holds that trial courts may reallocate parental decision-making authority under a bare best-interest standard, immunizing such orders from constitutional scrutiny even when they directly restrict a parent's religious exercise. Because the Law Court's rule conflicts with the rule in other jurisdictions, this Court's intervention is required.

II. The Supreme Judicial Court of Maine's decision is irreconcilable with this Court's precedents.

The decision below conflicts with this Court's jurisprudence in three fundamental respects: it treats a judicial restraint on a parent's individual religious exercise as no state intrusion at all; it permits an unweighted best-interests analysis to override a fit parent's constitutional judgment without deference; and it dispenses entirely with the rigorous justifications that *Yoder* and *Mahmoud* require. Each flows from the Law Court's premise that an order allocating authority between parents "is not a state intrusion" into the parents' "shared" right to religious exercise with their child. Pet. App. 17a.

A. The decision below fails to distinguish an allocation of shared parental authority from a judicial restraint on a parent's individual religious exercise.

Under the Law Court's theory, judicial intervention between fit co-parents is a constitutionally inert "resolution of a dispute that the parents themselves could not resolve," insulating the resulting order from strict scrutiny. Pet. App. 18a. That premise conflicts with this Court's jurisprudence.

The Law Court based its expansive rule on *Mills* v. *Fleming*, 166 A.3d 1012 (2017), a domestic dispute concerning two children's participation in a youth soccer league and which parent would drive them to practices. *Mills* found no unconstitutional state intrusion because "all decisions concerning the children remain within the parents' ultimate authority, except where the parents cannot agree." *Id.* at 1015. *Mills* concluded that state intrusion exists where a

judgment "directly and substantially limits the parent's decision-making authority and delegates an aspect of parental rights and responsibilities to a third party." *Id.* at 1014.

The order here satisfies the first half of that standard by directly forbidding a mother to take her child to her own church during her own custodial time. Yet the Law Court found no intrusion because the delegated authority was handed to a co-parent. Pet. App. 16a–17a. Equating a routine administrative deadlock over youth sports logistics with a ban on religious worship is a drastic expansion of *Mills*.

More fundamentally, *Palmore* v. *Sidoti*, 466 U.S. 429 (1984), forecloses the premise that inter-parental custody adjudications are insulated from constitutional scrutiny. *Palmore* arose from a custody modification dispute between two private parents—precisely the inter-parental posture the Law Court used to exempt the order below. *Id.* at 430–31; Pet. App. 25a n.12. This Court recognized that "[t]he actions of state courts and judicial officers in their official capacity have long been held to be state action governed by the Fourteenth Amendment," 466 U.S. at 432 n.1, emphasizing that while private biases or preferences may lie beyond the reach of the law, "the law cannot, directly or indirectly, give them effect," *id.* at 433. Although *Palmore* rested on equal protection rather than due process grounds, *id.* at 433 n.2, and thus did not define the precise standard governing free-exercise claims, it conclusively establishes that a domestic custody order between two parents remains subject to federal constitutional limits.

The Law Court attempted to distinguish *Palmore*, observing that it merely limited what a court may consider within a best-interests framework rather

than requiring strict scrutiny. Pet. App. 25a n.12. That distinction is baseless. The constitutional violation in *Palmore* was not merely the trial court's subjective motivation, but the use of coercive state power to deprive a fit parent of her fundamental rights on constitutionally impermissible grounds.

The Law Court's own rule confirms this boundary, conceding that the Constitution "prohibits courts from preferring one parent to another on the basis of religion (or from otherwise evincing religious hostility)." Pet. App. 25a n.12. Once it is established that constitutional limits apply to a parental-rights order, the dispositive question becomes which specific limits govern a direct restraint on an individual parent's religious exercise. The Law Court's error was conflating routine decision-making allocations with direct, coercive restraints on a parent's core, First Amendment-protected liberty.

Troxel v. *Granville*, 530 U.S. 57 (2000) (plurality opinion), and *Yoder* point to the same conclusion. In *Troxel*, the state infringement took the form of a visitation order entered at the behest of a third party. 530 U.S. at 72–73. Similarly, *Yoder* recognized that state action threatening to undermine a parent's religious direction of her child imposes a direct constitutional burden. 406 U.S. at 218. Under the rule crafted below, however, the exact constitutional burden that *Yoder* held unconstitutional would require zero justification whenever one co-parent happens to align with the State.

B. The holding that the best-interest standard overrides a fit parent's religious exercise conflicts with *Troxel*.

The Law Court held that "courts may always use the best-interest standard" to allocate religious decision-making authority, requiring no threshold evidentiary showing and affording zero deference to the parent whose religious exercise is restricted. Pet. App. 14a–15a. That rule conflicts with *Troxel*, which established that "there is a presumption that fit parents act in the best interests of their children," 530 U.S. at 68 (plurality opinion), and that a court "must accord at least some special weight to the parent's own determination," *id.* at 70.

This Court held that the State may not infringe upon a parent's fundamental rights "simply because a state judge believes a 'better' decision could be made." *Troxel*, 530 U.S. at 72–73 (plurality opinion). Yet that is what happened here. No court ever found Bickford unfit, and the District Court expressly found that "[b]oth parents love [the child] tremendously." Pet. App. 36a. Nonetheless, the order displaced Bickford's religious exercise because, in the Law Court's words, Bradeen was "better suited to determine whether certain religious activities are in the child's best interest." Pet. App. 28a. That conclusion conflicts with *Troxel*, which held that if a parent "adequately cares for his or her children (*i.e.*, is fit)," then "there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children." 530 U.S. at 68–69.

The Law Court dismissed this Court's foundational parental-rights jurisprudence—including *Troxel*, *Mahmoud*, and *Yoder*—reasoning that those decisions govern disputes between parents and the State or third parties rather than inter-parental impasses. Pet. App. 25a n.12. That distinction fails. The fundamental rights recognized in *Troxel* and *Yoder* define the scope of parental liberty protected by the Due Process and Free Exercise Clauses. When a state court strips a fit parent of her right to direct her child's religious upbringing and vests a co-parent with veto power, it deploys the coercive authority of the State to extinguish a fundamental right, whatever the procedural posture.

The two-fit-parent dilemma does not alter this constitutional calculus. This Court recently reaffirmed that parents remain "the primary protectors of children's best interests." *Mirabelli* v. *Bonta*, 607 U.S. 492, 496–97 (2026) (per curiam) (citing *Troxel*, 530 U.S. at 68–69). Under *Troxel*, every fit parent is presumed to act in his or her child's best interest. 530 U.S. at 68. Where two fit parents are involved, a co-parent's disagreement with the other parent's religious exercise does not negate that presumption, nor does it transform a fit parent's exercise of religious authority into an act harmful to the child simply because the other parent disagrees.

Judicial authority to mediate a disagreement between fit parents does not mean a court can give one fit parent's individual religious exercise zero constitutional weight. The Law Court's own lead authority draws that line. In *Kurowski*, the New Hampshire Supreme Court applied the best-interest standard to resolve a dispute between two parents with "equal constitutional parenting rights," yet strictly required

"substantial evidence" that the child's welfare was jeopardized before permitting any restriction on a parent's religious training. 161 N.H. at 581, 595. The decision below, by contrast, strips a fit parent's religious exercise of any independent constitutional protection whenever the parents disagree.

C. *Yoder* and *Mahmoud* require a justification of the highest order and narrowly tailored means before the State substantially burdens a parent's religious direction of her child.

The decision below errs by holding that a family court need not make a threshold finding of substantial harm, nor craft a narrowly tailored order, before burdening a fit parent's religious direction of her child, holding instead that the unvarnished best-interest standard governs "from the outset." Pet. App. 23a. That rule directly defies this Court's longstanding jurisprudence. In *Yoder*, the Court established that a state action burdening parental religious direction requires an interest "of the highest order" that is "not otherwise served." 406 U.S. at 215. *Yoder* permits the State to limit a parent's religious upbringing only where "parental decisions will jeopardize the health or safety of the child." *Id.* at 233–34.

This Court reaffirmed and expanded these core protections in *Mahmoud*, holding that "[w]hen the burden imposed is of the same character as that imposed in *Yoder*," strict scrutiny applies automatically without any requirement to inquire into neutrality or general applicability. 606 U.S. at 564–65. Under *Mahmoud*, the government must affirmatively demonstrate that its policy "advances 'interests of the highest order' and is narrowly tailored to achieve

those interests." *Id.* at 565. The Court further emphasized that it "ha[s] never confined *Yoder* to its facts." *Id.* at 558. That observation undercuts the Law Court's attempt to dismiss *Yoder* and confine it solely to disputes between individual parents and the State. Pet. App. 25a n.12.

This Court recently applied that framework in *Mirabelli*, where it concluded that state policies subverting parental guidance on gender identity substantially interfere with the right to direct a child's religious development and impose burdens on religious exercise that *Yoder* forbids. 607 U.S. at 496–97. Because those intrusions exceeded the classroom context of *Mahmoud*, strict scrutiny applied *a fortiori*. *Ibid.* *Mirabelli* thus establishes that *Mahmoud* reaches any state action that substantially interferes with a parent's religious upbringing of a child.

The judicial order in this case is even more disturbing than the school policies in *Mahmoud* and *Mirabelli*. It forbids a fit mother from taking her child to any church or teaching her the Bible during her own custodial time, backed by the contempt power of the State. Maine has effectively nullified *Yoder* in the family law arena—precisely the domain where parental religious autonomy is most frequently contested.

III. The question is exceptionally important, recurring, and squarely presented.

The decision below permits state courts to restrict a fit parent's fundamental right to direct her child's religious upbringing under a bare best-interest standard. The question recurs nationwide under entrenched, conflicting constitutional standards, and only this Court can supply a uniform rule. This case

presents it on a final judgment, a fully developed record, and explicit factual findings.

A. The decision below permits a court to restrict a fit parent's authority over her child's religious upbringing based on the court's subjective assessment of the parent's faith.

The proceedings below demonstrate how a best-interest standard operates when stripped of constitutional guardrails. The Free Exercise Clause bars government officials—including state courts—from judging the plausibility of religious beliefs or subjecting religious doctrines to negative judicial assessment. *Masterpiece Cakeshop* v. *Colorado C.R. Comm'n*, 584 U.S. 617 (2018). The proceedings below violated this core principle.

The District Court's best-interest analysis degenerated into an unconstitutional examination and negative assessment of traditional Christian beliefs. Repeatedly rendering "god" in lowercase each time the word appears in its order, the court catalogued features of Calvary Chapel's teaching that it found objectionable—including sermons on "messages about warfare, fallen angels, and eternal suffering," pastoral descriptions of hell, the teaching that "people can only be saved by meeting god on god's terms," and the church's belief in the Second Coming of Christ. Pet. App. 37a–38a.

When Bickford sought to examine Bradeen's religious views, the District Court disclaimed any interest in religion. Pet. App. 92a–93a. But then the court *sua sponte* subjected Bickford's pastor, Pastor Carey, to aggressive questioning about Calvary Chapel's beliefs, interrogating him about sermons on spiritual

warfare, church teachings on "those who are not saved," "what hell entails," parishioners' testimonies regarding personal redemption, church teachings on mental health counseling, and whether children are taught that "evil and sin lies within everybody." Pet. App. 103a–115a.

The District Court treated Calvary Chapel's assertion of exclusive religious truth as affirmative evidence of psychological harm to the child, noting that Pastor Carey answered the court's questions "in [a] manner that suggested that there could be no other truth than the message he was delivering." Pet. App. 42a. A belief in possessing absolute truth, however, is a foundational tenet common to countless faiths.

The trial court's subjective hostility is further demonstrated by its mischaracterization of basic Christian prayer. The court cited a brief pastoral prayer offered at a midweek service as evidence that the pastor designated the father as "the enemy." Pet. App. 46a–51a. In reality, the prayer referred to "the enemy" in the scriptural sense of Satan. The pastor simply asked God to "bring to nothing the plans and the snares and the tricks of the enemy." Pet. App. 50a. Interpreting an ordinary prayer of protection against spiritual forces as a targeted attack against a co-parent reflects either profound theological misunderstanding or active hostility toward traditional religious speech. *Cf. Masterpiece Cakeshop*, 584 U.S. at 638 ("[I]t is not, as the Court has repeatedly held, the role of the State or its officials to prescribe what shall be offensive.").

This Court has long established that civil tribunals may not adjudicate "the truth or verity of * * * religious doctrines or beliefs," *United States* v. *Ballard*, 322 U.S. 78, 86 (1944). Nor may the government base

official actions on a negative judgment regarding the legitimacy of religious beliefs. *Masterpiece Cakeshop*, 584 U.S. at 638. Strict scrutiny enforces these vital boundaries by demanding rigorous proof of concrete harm and narrow tailoring to remedy that harm.

Under the Law Court's rule, a state court may censor a fit parent's worship with her child whenever a judge concludes that her church's orthodox teachings fail to serve the child's best interest. That rule threatens every faith tradition that teaches divine judgment, spiritual warfare, the consequences of sin, and the afterlife.

The Law Court's footnote concluding that the District Court's restriction would survive strict scrutiny anyway (Pet. App. 29a n.15) lays bare the danger of allowing state courts to adjudicate religious upbringing disputes without rigid constitutional guardrails. Stripped of the requirement for objective, detailed evidence of harm, a freewheeling "best-interest" inquiry inevitably collapses into subjective judicial preference.

The District Court's finding of "harm," which the Law Court adopted, rested on the uncorroborated, self-serving testimony of Bradeen—who simply disliked where Bickford attended church—combined with the court's own subjective assessment of Calvary Chapel's religious practices. Pet. App. 90a. No professional counselor or therapist ever treated or evaluated the child. Pet. App. 89a. Courts may not rely on the uncorroborated, general testimony of one parent alone to determine that a child's exposure to the other parent's religious instruction is harmful. See, *e.g.*, *Felton*, 383 Mass. at 240; *Munoz*, 79 Wash. 2d at 814; *Hanson* v. *Hanson*, 404 N.W.2d 460, 464 (N.D. 1987); *Khalsa* v. *Khalsa*, 107 N.M. 31, 36 (Ct. App. 1988)

("[A] custodial parent's general testimony that the child is upset or confused because of the non-custodial parent's religious practice is insufficient to demonstrate harm.").

Harm to a child from a parent's religious practices cannot be assumed or surmised; it must be demonstrated in detail. See *Zummo*, 394 Pa. Super. at 50 ("If the other parent objects and seeks restrictions, the objecting parent must establish a substantial risk of harm in absence of the restriction proposed." (citing *Yoder*, 406 U.S. at 230)). Subjective assertions by one parent that a child is "anxious" or "upset" are insufficient, as they routinely conflate the ordinary stress of parental separation with religious conflict. See *Zummo*, 394 Pa. Super. at 79 ("[E]xposure to parents' conflicting values, lifestyles, and religious beliefs may indeed cause doubts and stress. However, stress is not always harmful, nor is it always to be avoided and protected against."). Strict scrutiny cannot be satisfied by judicial rubber-stamping of subjective religious objections. If a state court can clear the high bar of strict scrutiny merely by crediting one parent's testimony, then the other parent's right to free exercise of religion in the domestic relations context is subject to the court's unfettered discretion.

B. Religious-upbringing disputes between co-parents recur in state courts under conflicting constitutional standards.

Disputes between separated and divorced parents about their child's religious upbringing recur constantly in state courts across the country. See, *e.g.*, *Munsell*, 321 Neb. at 376; *Kingston*, 532 P.3d at 971; *Bardonner* v. *Bardonner*, 231 N.E.3d 245, 252 (Ind.

Ct. App. 2024); *Kelley*, 535 P.3d at 1151; *In re Marriage of Crouch*, 490 P.3d 1087 (Colo. App. 2021).

Although the Law Court characterized its decision as merely joining a consensus of "other courts," Pet. App. 22a, the leading state high court decisions on each side rest squarely upon interpretation of the Constitution. Consequently, this intractable conflict will persist and expand until this Court intervenes.

C. Only this Court can establish a uniform constitutional rule for judicial orders affecting a parent's religious direction of a child.

In *Troxel*, a plurality of this Court declined to "define * * * the precise scope of the parental due process right in the visitation context," 530 U.S. at 73 (plurality opinion), prompting Justice Thomas to observe that none of the opinions "articulates the appropriate standard of review" of government actions that infringe on the fundamental right to direct the upbringing of their children, *id.* at 80 (Thomas, J., concurring in the judgment). Consequently, courts on both sides of this divide have repeatedly asked this Court for guidance. The Nebraska Supreme Court recently observed that this Court "has not weighed in on the difficult question of how to properly balance these conflicting rights in the context of divorce proceedings." *Munsell*, 321 Neb. at 375. Similarly, the Law Court acknowledged that this Court has "never, other than in *Palmore*, addressed the scope of an individual parent's constitutional rights in a dispute between parents." Pet. App. 26a n.12. While *Mahmoud* and *Mirabelli* confirm that this Court continues to enforce *Yoder*'s robust protections, this case squarely presents the critical question those decisions left open:

whether those core protections apply when the State exercises its coercive power through a custody order between two separated parents.

This vital federal question was raised and squarely decided at every stage of the proceedings below. The Law Court analyzed Bickford's free-exercise and due-process claims together, deciding the combined federal constitutional claim. Pet. App. 13a–30a & n.7. This Court possesses full jurisdiction to review a federal question actually resolved by a state court of last resort, *Orr* v. *Orr*, 440 U.S. 268, 274–75 (1979), and a litigant is free to make any supporting argument for a claim properly presented below, *Yee* v. *City of Escondido*, 503 U.S. 519, 534–35 (1992). The Law Court expressly adjudicated the allocation-versus-restriction question. Pet. App. 14a–23a & n.11. The material facts have already been found, the text of the challenged order is undisputed, and the Law Court selected and applied its governing legal standard de novo. Pet. App. 14a–15a. This petition asks the Court only to determine the correct constitutional standard, and it should grant review to set things right.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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