No. 25-840

IN THE

Supreme Court of the United States

INTERNATIONAL PARTNERS FOR ETHICAL CARE, INC., ET AL.,

Petitioners,

v.

BOB FERGUSON, GOVERNOR OF WASHINGTON, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS; NATIONAL ASSOCIATION OF EVANGELICALS; THE JEWISH COALITION FOR RELIGIOUS LIBERTY; AND THE COALITION FOR JEWISH VALUES AS *AMICI CURIAE* SUPPORTING PETITIONERS

R. SHAWN GUNNARSON
Counsel of Record
CHRISTOPHER A. BATES
ALAN M. HURST
JAROM M. HARRISON
KRISTEN CLARKE
KIRTON | MCCONKIE
36 South State Street
Suite 1900
Salt Lake City, Utah 84111
(801) 328-3600
sgunnarson@kmclaw.com

Counsel for Amici Curiae

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D.C. 20002

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTERESTS OF *AMICI CURIAE*	1
SUMMARY OF ARGUMENT	1
ARGUMENT	2
CERTIORARI IS NEEDED TO PREVENT STANDING DOCTRINE FROM BLOCKING JUDICIAL REVIEW OF VALID FREE EXERCISE CLAIMS LIKE PETITIONERS'	2
A. Washington Law Violates Petitioners' Free Exercise Rights	2
B. The Ninth Circuit's Misuse of Standing Illicitly Blocks Judicial Review for Free Exercise Claims Like Petitioners'.	9
CONCLUSION	17

TABLE OF AUTHORITIES

CASES Page(s)

Allen v. *Wright*,
468 U.S. 737 (1984)..... 16

Cohens v. *Virginia*,
19 U.S. (6 Wheat.) 264 (1821)..... 14

Colo. River Water Conservation Dist. v. *United States*,
424 U.S. 800 (1976)..... 14

Emp. Div., Dep't of Hum. Res. of Or. v. *Smith*,
494 U.S. 872 (1990)..... 6, 7

Espinoza v. *Mont. Dep't of Revenue*,
591 U.S. 464 (2020)..... 7

First Choice Women's Res. Ctrs., Inc. v. *Platkin*,
No. 24-3124, 2024 WL 5088105
(3d Cir. Dec. 12, 2024) 15–16

Fulton v. *City of Philadelphia*,
593 U.S. 522 (2021)..... 9

Lost Lake Holdings LLC v. *Town of Forestburgh*,
No. 7:22-cv-10656, 2025 WL 1899026
(S.D.N.Y. July 9, 2025) 16

Lujan v. *Defs. of Wildlife*,
504 U.S. 555 (1992)..... 15

Mahmoud v. *Taylor*,
606 U.S. 522 (2025)..... 7, 12, 13

Meyer v. *Nebraska*,
262 U.S. 390 (1923)..... 8, 9

TABLE OF AUTHORITIES—Continued

Page(s)

Murthy v. *Missouri*,
603 U.S. 43 (2024) 16

Parents Protecting Our Children, UA v.
Eau Claire Area Sch. Dist.,
95 F.4th 501 (7th Cir. 2024) 16

Pierce v. *Soc'y of Sisters*,
268 U.S. 510 (1925) 6, 8, 9

Susan B. Anthony List v. *Driehaus*,
573 U.S. 149 (2014) 12, 13

Troxel v. *Granville*,
530 U.S. 57 (2000) 8

W. Va. State Bd. of Educ. v. *Barnette*,
319 U.S. 624 (1943) 14

Whitmore v. *Arkansas*,
495 U.S. 149 (1990) 14

Wisconsin v. *Yoder*,
406 U.S. 205 (1972) 7, 14

CONSTITUTION

U.S. Const. art. III, § 1 14

STATUTES

Wash. Rev. Code § 13.32A.082 2

Wash. Rev. Code § 13.32A.082(1)(b)(i) 10, 11

Wash. Rev. Code § 13.32A.082(3)(b)(i) 10, 11

Wash. Rev. Code § 13.32A.082(3)(b)(ii) 8

TABLE OF AUTHORITIES—Continued

OTHER AUTHORITIES	Page(s)
Al-Adab Al-Mufrad	6
Bruce A. Boyer & Steven Lubet, *The Kidnapping of Edgardo Mortara: Contemporary Lessons in the Child Welfare Wars*, 45 Vill. L. Rev. 245 (2000)	11
Catechism of the Catholic Church (USCCB 2d ed. 2019)	3, 5
The Church of Jesus Christ of Latter-day Saints, *General Handbook: Serving in The Church of Jesus Christ of Latter-day Saints*	3, 5
Derech Project, *Sex and Relationships Education in Jewish Schools* (2006)	6
The First Presidency and Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints, *The Family: A Proclamation to the World* (Sep. 23, 1995)	3
The Holy Bible	3, 4, 5
Kecia Ali & Oliver Leaman, *Islam: The Key Concepts* (2008)	4
Man, Woman, and Priesthood (Peter Moore ed., 1978)	4
Mikraos Gedolos (Rabbi Yaakov Menken trans., 1971)	6
Nat'l Ass'n of Evangelicals, *Helping Families Flourish* (2022)	5

TABLE OF AUTHORITIES—Continued

Page(s)

Nat'l Ass'n of Evangelicals, *Theology of Sex* (2012)..... 4

Siti Suhaila Ihwani et al., *Sex Education: An Overview from Quranic Approach*, 1 J. Quran Sunnah Educ. & Special Needs, no. 2 (Dec. 2017)..... 6

INTERESTS OF *AMICI CURIAE*[1]

Amici are religious organizations with a powerful interest in the robust application of the Constitution's guarantee of religious freedom. That freedom includes the right of parents to decide how to guide their children in matters of marriage, sexuality, and gender. Washington State violated that right by authorizing State-run shelters to provide gender-transitioning services to runaway minors without notifying their parents. We urge the Court to grant review to protect petitioners' exercise of religion and parental rights—and to prevent other States from following Washington's example.

SUMMARY OF ARGUMENT

Washington State law authorizes State-operated shelters to conceal the whereabouts of an underaged runaway who seeks assistance with gender transitioning. That law infringes the constitutional rights of parents to make decisions about a child's religious upbringing without government interference. And this infringement's effect on the petitioners is not hypothetical—one of petitioners' children has already run away in the past, while another has been encouraged by friends to run away because the parents do not support the child's "trans identity." Pet.App.74a–75a, 77a.

Yet the Ninth Circuit dismissed petitioners' claims for lack of standing. That decision misconstrues

---

[1] Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for any party authored this brief in whole or in part and that no entity or person, aside from *amici*, their members, and their counsel, made any monetary contribution toward the preparation or submission of this brief. Pursuant to Rule 37.2, *amici* further certify that counsel of record for all parties received notice of the intent to file this brief at least 10 days before it was due.

standing doctrine by disregarding this Court's enduring concern with the judicial vindication of constitutional rights.

Certiorari should be granted to prevent lower courts from misapplying standing doctrine as a contrived barrier to the exercise of rights the Constitution guarantees.

ARGUMENT

CERTIORARI IS NEEDED TO PREVENT STANDING DOCTRINE FROM BLOCKING JUDICIAL REVIEW OF VALID FREE EXERCISE CLAIMS LIKE PETITIONERS'.

A. Washington Law Violates Petitioners' Free Exercise Rights.

1. Petitioners challenge amendments to Washington's Family Reconciliation Act, Wash. Rev. Code § 13.32A.082. See Pet.App.80a. These amendments direct employees at State-run shelters and licensed facilities *not* to notify parents immediately when an underage runaway arrives requesting treatment for gender dysphoria. Frantic parents whose child is missing may not learn that a child is safe or where he or she is located for up to ten days—"an eternity for parents whose child has run away." Pet.App.88a. Worse, while the child is in State custody the amendments "authorize[] the State to refer a minor for 'behavioral health services' without defining what that entails." Pet.App.67a. "[M]ental health services that promote 'gender transitions'" against parents' wishes are plainly included. Pet.App.68a. But "these undefined services could include 'medical treatment' that the parents would not authorize and [that] would be permanently harmful to the minor." Pet.App.68a.

2. Petitioner parents hold sincere religious beliefs that sex and gender are inseparable.

Parents 3A and 3B embrace Roman Catholic teachings on gender. They accept, for instance, that "[b]y creating the human being man and woman, God gives personal dignity to the one and the other. Each of them, man and woman, should acknowledge and accept his sexual identity." Pet.App.98a (quoting *Catechism of the Catholic Church*, para. 2393 (USCCB 2d ed. 2019) [hereinafter *Catechism*]).

Parents 4A and 4B are Christians whose religious beliefs are shaped by the Bible—especially its teachings that "man and woman are created by God as male and female respectively" and that "biological males and females are not to embrace gender expressions in their manner of dress that reflects society's expression of the opposite biological sex." Pet.App.98a–99a (citing Genesis 1:27; 1 Corinthians 11:14–15).

3. Nor are petitioners alone. Many traditional religious faiths teach that gender identity is divinely connected with birth sex.

The Church of Jesus Christ of Latter-day Saints teaches that "[a]ll human beings—male and female—are created in the image of God. * * * Gender is an essential characteristic of individual premortal, mortal, and eternal identity and purpose." The First Presidency and Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints, *The Family: A Proclamation to the World*, para. 2 (Sep. 23, 1995). "Gender" is authoritatively defined as "biological sex at birth." The Church of Jesus Christ of Latter-day Saints, *General Handbook: Serving in The Church of Jesus Christ of Latter-day Saints* § 38.6.23 [hereinafter *Handbook*].

The National Association of Evangelicals (NAE) affirms that "[a]fter God had created humans—male and female in his image—he looked at all he had made and pronounced it 'very good.'" Nat'l Ass'n of Evangelicals, *Theology of Sex* 2 (2012) (citing Genesis 1:31). Putting biblical teachings in context, NAE further acknowledges that "God established divine frameworks for human life. These frameworks include humans as male and female, sex, and marriage as the context for sexual intimacy and procreation." *Id*. at 3.

Traditional Judaism understands personal identity as eternally male or female. The Torah records, "And G-d Created man in His image, in the Image of G-d He Created him, male and female He created them." Genesis 1:27; see also Jonathan Sacks, *The Role of Women in Judaism*, *in Man, Woman, and Priesthood* 27, 29 (Peter Moore ed., 1978) ("Man as such—and woman as such—was made in the image of God * * *. It was the recognition of this that was to be the basis of the covenant between God and all humanity.").

Scholars of Islam agree that "[t]he notion that humanity is divided into male and female and that sex or gender is a defining characteristic of human experience is firmly embedded into the Muslim worldview." Kecia Ali & Oliver Leaman, *Islam: The Key Concepts* 42 (2008) (emphasis omitted).

4. Some of the petitioner parents also consider themselves under a religious duty to guide their children in the faith.

"Parents 3A and 3B believe that their faith places upon them a religious obligation to teach these religious beliefs to their children and guide them in living them." Pet.App.99a. As Roman Catholics, they accept that "[t]hrough the grace of the sacrament of

marriage, parents receive the responsibility and privilege of *evangelizing their children*." *Catechism*, para. 2225 (emphasis added).

Parents 4A and 4B share this sense of religious duty to guide and direct their children in the faith. See Pet.App.99a (citing Deuteronomy 6:6–7 ("And these words that I command you today shall be on your heart. You shall teach them diligently to your children, and shall talk of them when you sit in your house, and when you walk by the way, and when you lie down, and when you rise.")).

5. Petitioners' statements of faith reflect not only their own religious commitments, but religious beliefs cherished by many other faith communities, including *amici.*

The Church of Jesus Christ of Latter-day Saints declares that "[p]arents have primary responsibility for the sex education of their children. Parents should have honest, clear, and ongoing conversations with their children about healthy, righteous sexuality." *Handbook* § 38.6.17.

The National Association of Evangelicals has urged governments to "[p]reserve the right of parents to guide their children's education and development particularly in the sensitive areas of sexuality and gender identity." Nat'l Ass'n of Evangelicals, *Helping Families Flourish* (2022).

Jewish teachings follow a similar pattern. The Shema prayer includes this instruction: "And you shall teach them diligently to your children." *Devarim* (Deuteronomy) 6:7. As the commentary of Moses Nachmanides explains, "this expressed commandment was implied previously [where the Torah says your children must know the laws and the Covenant] * * *

how were they to know if we did not teach them?" *Commentary of Nachmanides*, *in* 5 *Mikraos Gedolos* 85–86 (Rabbi Yaakov Menken trans., 1971). Jews today understand these ancient commands as an important duty for parents to guide children on matters of gender and sexuality. See Derech Project, *Sex and Relationships Education in Jewish Schools* 11 (2006).

Consider Islam. It recognizes the duty of parents to guide their children. The Prophet Muhammad taught: "All of you are shepherds and each of you is responsible for his flock. A man is the shepherd of the people of his house and he is responsible. A woman is the shepherd of the house of her husband and she is responsible." Al-Adab Al-Mufrad, Book 10, Hadith 212. Muslims understand this teaching to encompass an obligation to teach children regarding gender and sexuality. See Siti Suhaila Ihwani et al., *Sex Education: An Overview from Quranic Approach*, 1 J. Quran Sunnah Educ. & Special Needs, no. 2, at 1 (Dec. 2017).

In short, petitioners' religious beliefs about sex, gender, and parental responsibility are mutually reinforced by religious beliefs common among all Abrahamic faiths. Those beliefs are not the preserve of an eccentric or hard-to-accommodate minority. They are the honest convictions of men and women trying to rear their children within their faith. See *Emp. Div., Dep't of Hum. Res. of Or.* v. *Smith*, 494 U.S. 872, 882 (1990) (recognizing that the Free Exercise Clause guards against "an attempt to regulate * * * the raising of one's children in [the parent's religious] beliefs").

6. Washington's law thus infringes both the right to free exercise of religion and "the right of parents * * * to direct the education of their children." *Id.* at 881–82 (citing *Pierce* v. *Soc'y of Sisters*, 268 U.S. 510 (1925);

Wisconsin v. *Yoder*, 406 U.S. 205 (1972)). These rights are among the ancient landmarks of our law. The right of parents to transmit their faith to their children without government interference is fundamental. "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." *Yoder*, 406 U.S. at 232.

Parental authority includes the right to direct a child's religious education. See *id.* at 213–14 (affirming that "the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society"); *Espinoza* v. *Mont. Dep't of Revenue*, 591 U.S. 464, 486 (2020) ("[W]e have long recognized the rights of parents to direct 'the religious upbringing' of their children." (quoting *Yoder*, 406 U.S. at 213–14)); *Smith*, 494 U.S. at 881. That right holds preeminent importance for petitioners here.

Only last year, this Court reaffirmed these axioms in *Mahmoud* v. *Taylor*, 606 U.S. 522 (2025). There, the Court held that parents with religious objections to a public school reading program that exposed young children to LGBT-related ideas of sex and gender were entitled to a preliminary injunction. *Id.* at 530. That decision rested on *Yoder*'s insight that "[a] government burdens the religious exercise of parents when it requires them to submit their children to instruction that poses 'a very real threat of undermining' the religious beliefs and practices that the parents wish to instill." *Id.* at 528 (quoting *Yoder*, 406 U.S. at 218).

A related line of decisions under the Due Process Clause affirms "the fundamental right of parents to

make decisions concerning the care, custody, and control of their children." *Troxel* v. *Granville*, 530 U.S. 57, 66 (2000); accord *Pierce*, 268 U.S. at 510; *Meyer* v. *Nebraska*, 262 U.S. 390 (1923).

These basic rights of religious exercise and parental authority are mutually reinforcing. As petitioners' complaint explains, "[t]he free exercise of religion is a fundamental right, and a law goes to the core of that protected right when it involves raising children in accordance with the parents' religious faith." Pet.App.116a.

7. Washington law violates these rights in at least three ways. One, the law "interfer[es] with certain parents' custody and thus mak[es] it impossible to raise their children in accord with their faith during the time that the Defendants keep the child away from parents without allowing contact." Pet.App.117a. Two, State law "overrides parents' religiously motivated decisions regarding healthcare" by referring a child to treatment without parental consent. Pet.App.116a. Three, State law offers "services designed to resolve the conflict and accomplish a reunification of the family." Wash. Rev. Code § 13.32A.082(3)(b)(ii). But "reconciliation" is a euphemism. Pet.App.116a. It implicitly requires parents to accept the State's intervention in the parent-child relationship and its provision of medical treatment that may contradict a parent's faith. See Pet.App.116a–117a.

In these respects, the challenged provisions of Washington law put the petitioners to an intolerable choice: Abandon or compromise their religious and moral beliefs regarding sex, gender, and parental responsibility or risk the State's heavy-handed intervention in the parent-child relationship—including concealing a child's whereabouts for days if he or she

runs away from home and delivering gender-transition treatments without parental consent. See also *Fulton* v. *City of Philadelphia*, 593 U.S. 522, 532 (2021).

Washington State's determination to assist minors troubled by gender confusion may be an appropriate and even (in broad principle) admirable aim. But as this Court has repeatedly recognized, "a desirable end cannot be promoted by prohibited means." *Meyer*, 262 U.S. at 401. In our constitutional system, "[t]he child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Pierce*, 268 U.S. at 535.

Petitioners' claims are not only colorable but compelling. They deserve judicial review on the merits. But that's exactly what they have not received.

B. The Ninth Circuit's Misuse of Standing Illicitly Blocks Judicial Review for Free Exercise Claims Like Petitioners'.

1. Notwithstanding the serious constitutional infirmities with Washington's law that petitioners identify, the Ninth Circuit ruled they could not proceed with their suit because they failed to identify a "clearly impending" injury. Pet.App.27a. In the court's view, the possibility that one of petitioners' gender dysphoric children might run away to a State facility and obtain life-altering gender-transition services—and that petitioners would be kept in the dark because of Washington's law—was "simply not enough." Pet.App.21a. Nor was the fact that petitioners have already stopped instructing their children on religiously sensitive topics because of Washington's law. Pet.App.10a–11a, 14a–16a.

The Ninth Circuit's blinkered approach disregards the longstanding principle that when First Amendment rights are at stake, less stringent standing rules apply. Equally problematic, it creates a false barrier to meaningful judicial review of petitioners' free exercise claims.

2. Petitioners have identified several ways Washington's law causes them—and other parents of children experiencing gender dysphoria—concrete harm. First, the law injures them *now* by impeding their ability to parent their children consistent with their religious beliefs. Pet.App.116a. The law chills their religious teaching by instilling fear that if they disapprove of a child's desire to change genders, the child may respond by running away to a State facility that will both keep the child's location a secret *and* help the child obtain gender-transition care. Pet.App.71a–73a; see Wash. Rev. Code § 13.32A.082 (1)(b)(i) (specifying that if a minor at a shelter is seeking "gender-affirming treatment," the shelter must contact the Washington Department of Children, Youth, and Families (DCYF)); *id.* § 13.32A.082(3)(b)(i) (requiring DCYF to "[o]ffer to make referrals" for the child "for appropriate behavioral health services," which plainly is intended to include gender-transition treatment).

This is no mere hypothetical. Washington's law has made petitioners "hesitant to discipline" their children and has even led them to "avoid talking about gender" around their children. Pet.App.71a, 73a. Those results deny petitioners' First Amendment right to raise their children in accordance with their religious beliefs.

Second, the law creates a substantial risk of *future* harm by both (1) incentivizing gender dysphoric children in traditional religious homes to run away

(by telling them if they do so they can get gender-transition treatment and their parents will be kept in the dark), and (2) hindering parents' ability to locate their children and intervene to stop such treatment. See Wash. Rev. Code § 13.32A.082(1)(b)(i), (3)(b)(i).[2]

That risk is neither hyperbole nor hypothetical. One of petitioners' children has already run away in the past. Pet.App.77a. Another child has threatened to take a gender dysphoric younger sibling to a "safe place." Pet.App.72a. And a third child has been encouraged by a friend's family "to run away" because the child's parents "d[o] not believe that a 'trans identity' [is] authentic and healthy for him." Pet.App.74a–75a.

3. The Ninth Circuit brushed aside these injuries as either "self-inflicted" or too "uncertain" to establish Article III standing. Pet.App.15a, 22a. The impediments to petitioners' ability to raise their children in accordance with their religious beliefs are self-inflicted, the court said, "because they are the result of 'voluntary' actions that [petitioners] have taken 'in response to'" Washington's law—"not because of any actual requirement that the [law] impose[s]." Pet.App.15a–16a. That is, because the law does not *force* petitioners to withhold discipline or avoid talking about gender with their children, but instead merely instills fear that if they don't bow to the State's gender

[2] Although Washington's law does not sanction the kidnapping of children, its harsh results bear an uncomfortable resemblance to the infamous case of Edgardo Mortara, a young Jewish child "forcibly removed from his family" in the nineteenth century "so that he could be raised by Christians." Bruce A. Boyer & Steven Lubet, *The Kidnapping of Edgardo Mortara: Contemporary Lessons in the Child Welfare Wars*, 45 Vill. L. Rev. 245, 247 (2000).

ideology they will be separated from their children, petitioners haven't actually been injured by the law.

As for the risk that petitioners' children might run away and receive life-altering gender-transition services before petitioners can intervene, the court said such an outcome rested on too many "contingencies" to "satisfy Article III." Pet.App.21a. Specifically, the child would have to "run[] away to a licensed shelter while actively seeking or receiving gender-affirming care, resulting in the shelter taking in the child despite knowing that the minor is there without parental permission." Pet.App.21a–22a (numbering omitted). Of course, the whole point of the law is to *ensure* that when a gender dysphoric child seeking "gender-affirming care" runs away to a shelter, the parents are *not* notified.

4. In reaching these conclusions, the Ninth Circuit inverted the fundamental principle that "when a deprivation of First Amendment rights is at stake, a plaintiff need not wait for the damage to occur before filing suit." *Mahmoud*, 606 U.S. at 559–60. Rather, there need only be "a substantial risk that the harm will occur." *Susan B. Anthony List* v. *Driehaus*, 573 U.S. 149, 158 (2014).

Mahmoud illustrates this principle. There, a group of parents challenged a school's refusal to provide them notice and opportunity to opt their children out of classroom instruction that contradicted their religious beliefs about marriage and sexuality. 606 U.S. at 538–43. They contended the school's refusal violated their First Amendment right to direct the religious upbringing of their children. *Id.* at 543–44.

The Court concluded that the parents had "undoubtedly" shown a "substantial risk" of harm because it was undisputed the school was "introducing

the [curriculum] into classrooms." *Id.* at 560. "We do not need to 'wait and see' how a particular book is used in a particular classroom on a particular day," the Court explained, "before evaluating the parents' First Amendment claims." *Ibid.*[3]

So too here. A court should not "wait and see" whether Washington's law has its intended effect of preventing petitioners from locating their gender dysphoric children before evaluating their First Amendment claims. Petitioners contend that Washington's law deprives them of First Amendment rights by interfering with their right to raise their children in accordance with their religious beliefs and overriding their religiously motivated decisions about their children's healthcare. Pet.App.115a–21a. The law thus "infringes" both "free exercise and parental rights." Pet.App.117a. Petitioners further contend that the law violates their free speech rights by penalizing them for expressing their religiously motivated views about gender identity and chilling their speech to their children on the subject. Pet.App.122a–26a.

Because petitioners have credibly asserted a violation of First Amendment rights, they do not need to "wait for the damage to occur before filing suit." *Mahmoud*, 606 U.S. at 560. They have standing now to bring their claims. As Judge Tung rightly recognized,

---

[3] *Mahmoud* did not involve Article III standing, but instead the slightly different question whether the parents had shown a burden on religious exercise. 606 U.S. at 530. But in analyzing whether the parents had established such a burden, the Court relied on standing case law and asked the same question that determines whether a threatened injury confers Article III standing: is there "a substantial risk that the harm will occur"? *Id.* at 560 (quoting *Susan B. Anthony List*, 573 U.S. at 158). *Mahmoud* is plainly applicable here.

petitioners "should not have to wait until their child has run away to a shelter and received life-altering treatment before they are afforded the opportunity to challenge the law." Pet.App.55a. For "[b]y that time, it may be too late to rehabilitate (in the parents' view) the damage done to their child." Pet.App.55a.

5. The Ninth Circuit's misapplication of standing doctrine creates a misguided barrier to meaningful judicial review of petitioners' free exercise claims. The purpose of standing requirements is to "identify those disputes which are appropriately resolved through the judicial process" rather than other means. *Whitmore* v. *Arkansas*, 495 U.S. 149, 155 (1990). Ensuring that plaintiffs have suffered a concrete injury that is traceable to the defendant and redressable by the court keeps federal courts within their proper sphere—deciding "Cases" and "Controversies" under Article III of the Constitution. U.S. Const. art. III, § 1.

At the same time, courts have a "virtually unflagging obligation * * * to exercise the jurisdiction given them." *Colo. River Water Conservation Dist.* v. *United States*, 424 U.S. 800, 817 (1976). It is no less improper for a court to decline to hear a case correctly before it than it is for the court to reach out and decide the merits of a suit over which it has no jurisdiction. See *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 404 (1821).

Courts are vital bulwarks for constitutional rights—especially the rights of religious minorities with unpopular views. Vindicating the Constitution's fundamental guarantees in such cases has produced some of the Court's proudest moments. See, *e.g.*, *W. Va. State Bd. of Educ.* v. *Barnette*, 319 U.S. 624 (1943); *Yoder*, 406 U.S. at 205. This is an opportunity to do the same.

By dismissing petitioners' harms as "self-inflicted" and too "uncertain" and "amorphous" to establish Article III standing, the Ninth Circuit turned these basic principles on their head. Pet.App.15a, 21a–22a. It was not enough that petitioners have felt compelled to stop instructing their children on religiously sensitive topics. Nor was it enough that petitioners have demonstrated a genuine risk that Washington's law will result in them being separated from their children with no way to locate them or prevent life-altering healthcare decisions.

Rather, the Ninth Circuit demanded that petitioners wait—and keep waiting—until they can muster more "concrete details" and "specification of *when*" their children will run away to seek "gender-affirming treatment." Pet.App.22a (quoting *Lujan* v. *Defs. of Wildlife*, 504 U.S. 555, 564 (1992)). But such information is unknowable, unless a petitioner happens to overhear their child discussing such plans, or someone in whom the child has confided shares that information. And by then it may be too late to do what every good parent most desires—to protect their child from lasting harm.

6. Justiciability doctrines like standing should not pose a contrived barrier to vindicating constitutional rights. Unfortunately, the Ninth Circuit's decision is a continuation of a troubling trend where lower courts use such doctrines to avoid resolving constitutional claims on the merits.

Consider *First Choice Women's Resource Centers, Inc.* v. *Platkin*—pending in this Court—where the Third Circuit affirmed the district court's refusal to hear a crisis pregnancy center's challenge to an intrusive state administrative subpoena designed to chill the center's First Amendment rights. No. 24-3124,

2024 WL 5088105 (3d Cir. Dec. 12, 2024), *cert. granted*, 145 S. Ct. 2793 (2025). Or consider *Lost Lake Holdings LLC* v. *Town of Forestburgh*, where the district court dismissed as unripe a free exercise challenge to a New York town's religiously discriminatory denial of land use permits to a Jewish developer. No. 7:22-cv-10656, 2025 WL 1899026 (S.D.N.Y. July 9, 2025), *appeal docketed*, No. 25-2191 (2d Cir. Sep. 12, 2025). Or there's *Parents Protecting Our Children, UA* v. *Eau Claire Area School District*, 95 F.4th 501 (7th Cir. 2024), *cert. denied*, 145 S. Ct. 14 (2024). The Seventh Circuit "suggested that a parent could not challenge" a school district's policy not to inform parents when a child socially transitions at school "unless the parent could show that his or her child is transitioning or considering a transition." 145 S. Ct. at 14 (Alito, J., dissenting from the denial of certiorari).

The lesson from these lower-court missteps is evident. Although "Article III standing is an important component of our Constitution's structural design," that "doctrine is cheapened when the rules are not evenhandedly applied." *Murthy* v. *Missouri*, 603 U.S. 43, 98 (2024) (Alito, J., dissenting). The Ninth Circuit's decision joins an increasing line of cases where "federal courts are succumbing to the temptation to use" standing and other justiciability doctrines "as a way of avoiding some particularly contentious constitutional questions." *Parents Protecting Our Children*, 145 S. Ct. at 14–15 (Alito, J., dissenting from the denial of certiorari).

Standing doctrine is important to preserving the separation of powers. See *Allen* v. *Wright*, 468 U.S. 737, 752 (1984) (noting that "the law of Art. III standing is built on * * * the idea of separation of powers"). But even important legal doctrines can be misused.

Here, misapplying standing doctrine has blocked urgently needed review of petitioners' meritorious First Amendment claims. It does great damage to the Constitution when courts withhold relief for such claims through contrived barriers.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

R. SHAWN GUNNARSON
Counsel of Record
CHRISTOPHER A. BATES
ALAN M. HURST
JAROM M. HARRISON
KRISTEN CLARKE
KIRTON | MCCONKIE
36 South State Street
Suite 1900
Salt Lake City, Utah 84111
(801) 328-3600
sgunnarson@kmclaw.com

Counsel for Amici Curiae

February 17, 2026