SUPREME COURT OF THE UNITED STATES

No. 23A763

RAUL LABRADOR, ATTORNEY GENERAL OF IDAHO
v. PAM POE, BY AND THROUGH HER PARENTS AND NEXT FRIENDS, PENNY AND PETER POE, ET AL.

ON APPLICATION FOR STAY

[April 15, 2024]

The application for stay presented to JUSTICE KAGAN and by her referred to the Court is granted. The December 26, 2023 order of the United States District Court for the District of Idaho, case No. 1:23-cv-269, is stayed, except as to the provision to the plaintiffs of the treatments they sought below, pending the disposition of the appeal in the United States Court of Appeals for the Ninth Circuit and disposition of a petition for a writ of certiorari, if such a writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court.

JUSTICE KAGAN would deny the application for stay.

JUSTICE GORSUCH, with whom JUSTICE THOMAS and JUSTICE ALITO join, concurring in the grant of stay.

Early in the litigation below, the district court issued a preliminary injunction. Ordinarily, injunctions like these may go no further than necessary to provide interim relief to the parties. In this case, however, the district court went much further, prohibiting a State from enforcing any aspect of its duly enacted law against anyone. Today, the Court stays the district court's injunction to the extent it applies to nonparties, which is to say to the extent it provides "universal" relief. That is a welcome development.

I

To appreciate the significance of the Court's ruling, some background helps. In 2023, Idaho adopted the Vulnerable Child Protection Act. The law sought to regulate a number of "'practices upon a child for the purpose of attempting to alter the . . . child's sex.'" ___ F. Supp. 3d ___, ___ (Idaho 2023), App. A to Application for Stay 5. Those practices range from "surgeries that sterilize or mutilate" a child's genitals to the supply of "[p]uberty-blocking medication." *Ibid.* Idaho claimed that its law aimed to protect children from treatments that can cause "lasting harm and irreversible damage." *Id.*, at 51 (internal quotation marks omitted). The law's provisions were scheduled to take effect January 1, 2024.

Before that could happen, two children and their parents sued Idaho's attorney general and a local prosecutor in federal district court. The children and their parents alleged that, without access to puberty blockers and estrogen, the two minor plaintiffs would likely suffer serious mental health problems. Decl. of P. Poe in No. 1:23–cv–269 (D Idaho), ECF Doc. 32–2, ¶¶14, 19, 22; Decl. of J. Doe, ECF Doc. 32–4, ¶¶14, 16, 23–24. Shortly after filing suit, the plaintiffs asked the district court to issue a preliminary injunction.

The district court agreed to do so. But instead of enjoining state officials from enforcing the law with respect to the plaintiffs and the drug treatments they sought, the district court entered a universal injunction. App. A to Application for Stay 52–54. That is, the court prohibited the defendants from enforcing "any provision" of the law under any circumstances during the life of the parties' litigation. *Id.*, at 54. Among other things, this meant Idaho could not enforce its prohibition against surgeries to remove or alter children's genitals, even though no party before the court had sought access to those surgeries or demonstrated that Idaho's prohibition of them offended federal law. The court's order

promised to suspend Idaho's law indefinitely, too, as this litigation (like many today) may take years to reach final judgment.

Idaho responded by appealing the district court's preliminary injunction decision to the Ninth Circuit. The State also asked the Ninth Circuit to stay the preliminary injunction during the pendency of the appeal. At the least, the State argued, the court of appeals should stay the universal aspect of the district court's injunction so that at least some portions of its duly enacted law might finally take effect.

After the Ninth Circuit denied Idaho's stay request in a brief unreasoned order, the State proceeded here. Before us, the State does not challenge the preliminary injunction to the extent it ensures the two minor plaintiffs in this case continued access to their drug treatments. That aspect of the district court's order will remain in place pending appeal. The State asks us to stay the preliminary injunction only to the extent it bars Idaho from enforcing any aspect of its law against any person anywhere in the State.

II

Stay motions and other requests for interlocutory relief are nothing new or particularly remarkable. In truth, they are perhaps "as old as the judicial system of the [N]ation." *Scripps-Howard Radio, Inc.* v. *FCC*, 316 U. S. 4, 17 (1942). Every federal court in this country has within its "traditional" toolkit the power to pause temporarily its own order or one of a lower court or issue other forms of interim relief. *Id.*, at 9; see 28 U. S. C. §1651(a); this Court's Rule 23.1; Fed. Rule App. Proc. 8(a). Often, judges at all levels of the federal judiciary resolve motions for interlocutory relief in brief orders like the one the Court issues today and the Ninth Circuit did below. Judges have proceeded this way throughout the Nation's history. Indeed, many courts could not efficiently manage their dockets otherwise. Cf. *Wilson*

v. *Sellers*, 584 U. S. 122, 139 (2018) (GORSUCH, J., dissenting) ("[A] busy appellate court may sometimes not see the profit in devoting its limited resources to explaining the error [or] alternative basis for affirming . . . so it issues a summary affirmance instead").

Just as familiar are the rules that govern stay applications. This Court, like every other federal court, is "guided" by the same "sound . . . principles." *Nken* v. *Holder*, 556 U. S. 418, 434 (2009) (internal quotation marks omitted); see *Trump* v. *International Refugee Assistance Project*, 582 U. S. 571, 580 (2017) (*per curiam*); *id.*, at 584 (THOMAS, J., concurring in part and dissenting in part). We ask (1) whether the stay applicant has made a strong showing that it is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a stay, (3) whether the stay will substantially injure other parties interested in the proceedings, and (4) where the public interest lies. *Nken*, 556 U. S., at 434. A court's "'"discretion"'" to enter a stay is thus not left up to its mere "'"inclination, but to its judgment"'" regarding each of these time-tested considerations. *Ibid.* (quoting *Martin* v. *Franklin Capital Corp.*, 546 U. S. 132, 139 (2005), in turn quoting *United States* v. *Burr*, 25 F. Cas. 30, 35 (No. 14,692d) (CC Va. 1807) (Marshall, C. J.)).

Applying that traditional stay test here yields a ready answer. Start with the first question: whether Idaho has shown it is likely to succeed on the merits. This Court has long held that a federal court's authority to fashion equitable relief is ordinarily constrained by the rules of equity known "'at the time of the separation of'" this country from Great Britain. *Grupo Mexicano de Desarrollo, S. A.* v. *Alliance Bond Fund, Inc.*, 527 U. S. 308, 318 (1999); see *Guaranty Trust Co.* v. *New York*, 326 U. S. 99, 105 (1945); *Boyle* v. *Zacharie & Turner*, 6 Pet. 648, 658 (1832). Under those rules, this Court has said, a federal court may not issue an equitable remedy "more burdensome to the defendant than necessary to [redress]" the plaintiff's injuries. *Califano* v.

Yamasaki, 442 U. S. 682, 702 (1979); see *Gill* v. *Whitford*, 585 U. S. 48, 68 (2018) ("[A] 'remedy must . . . be limited to the inadequacy that produced the injury in fact that the plaintiff has established'"); *Rhode Island* v. *Massachusetts*, 12 Pet. 657, 718 (1838); *Department of Homeland Security* v. *New York*, 589 U. S. ___, ___ (2020) (*DHS*) (GORSUCH, J., concurring in grant of stay) (slip op., at 3); *United States* v. *Texas*, 599 U. S. 670, 693 (2023) (GORSUCH, J., concurring in judgment); S. Bray, Multiple Chancellors: Reforming the National Injunction, 131 Harv. L. Rev. 417, 425–428 (2017).

The district court's universal injunction defied these foundational principles. It did not just vindicate the plaintiffs' access to the drug treatments they sought. It purported to bar the enforcement of "any provision" of the law against anyone. App. A to Application for Stay 54. The district court issued this sweeping relief even though, by its own admission, the plaintiffs had failed to "engage" with other provisions of Idaho's law that don't presently affect them—including the law's provisions prohibiting the surgical removal of children's genitals. *Id.*, at 52. In choosing such an extraordinary remedy, the district court clearly strayed from equity's traditional bounds.

The remaining stay factors—the relative harms to the parties and the public interest—point to the same conclusion. Members of this Court have long held that, "'[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.'" *Maryland* v. *King*, 567 U. S. 1301, 1303 (2012) (ROBERTS, C. J., in chambers) (quoting *New Motor Vehicle Bd. of Cal.* v. *Orrin W. Fox Co.*, 434 U. S. 1345, 1351 (1977) (Rehnquist, J., in chambers)). Likewise, this Court has held that "[t]here is always a public interest in prompt execution" of the law, absent a showing of its unconstitutionality. *Nken*, 556 U. S., at 436.

Both considerations favor Idaho. The district court purported to bar the State from bringing into effect portions of

a statute that no party has shown, and no court has held, likely offensive to federal law. The district court's order promised to run for the life of this lawsuit, thus preventing Idaho from executing any aspect of its law for years. Meanwhile, the plaintiffs face no harm from the partial stay the State requests. Even with it, the district court's preliminary injunction will operate to prevent state authorities from taking any action to interfere with their ability to access the particular drug treatments they seek.

III

The dissent disputes none of this. It does not question that Idaho is entitled to relief under this Court's traditional stay test. Instead, it laments the number of requests for interim relief this Court has recently faced in "high-profile" cases. *Post*, at 1 (JACKSON, J., dissenting from the grant of stay). To deter future applications of that sort, the dissent proposes adding to our traditional stay test new factors alien to our precedents and historic equitable practice. Respectfully, however, the dissent's proposals miss the mark.

First, the dissent suggests that we should refuse to intervene when both a district court and a court of appeals have refused a party's request for interim relief. *Post*, at 2. But the dissent does not explain how this system of upside-down precedent works, where the Supreme Court is somehow bound to follow lower court decisions. Of course, no one questions that the Court should (as it does) afford due respect to the work of our lower court colleagues. See, *e.g.*, *Little* v. *Reclaim Idaho*, 591 U. S. ___, ___ (2020) (ROBERTS, C. J., concurring in grant of stay) (slip op., at 5). But the dissent does not explain why due respect should be replaced with abject deference, or how the rule it proposes would allow us to discharge faithfully our own obligation to assess fairly and independently the cases that come to us. Nor, for that matter, does the dissent attempt to reconcile its proposed new rule with the fact that, over the last 12 months,

this Court has (repeatedly) granted interim relief to the federal government in the face of contrary lower court rulings.[1]

Perhaps sensing these problems and convinced of the correctness of this Court's recent interventions, the dissent ultimately fashions itself an escape hatch. Tucked away in a footnote, the dissent adds that it does not mean to suggest that the "burden" of overcoming adverse lower court decisions "can never be carried." *Post*, at 3, n. 1. But if that's true, when does the dissent believe we should intervene, and when not? And why was it appropriate for this Court to override lower court decisions in so many other recent cases but it is inappropriate to do the same here? The dissent never says. So much for the added clarity and "restraint" it hopes to bring to our law. *Post*, at 7.

Second, the dissent suggests that, before granting relief, we should ask whether a case is "certworthy." *Post*, at 4. But it isn't clear how that would help matters either. In the past, various individual Justices faced with requests for interlocutory relief in chambers, sometimes while the Court stood in recess, considered whether four Justices would likely agree to take up the dispute. That practice may be understandable. But when hearing many stay requests, this one included, we sit as a full Court. And here, a majority has decided that this case is worthy of the Court's attention.

It has done so, too, for good reason. This case poses a question about the propriety of universal injunctive relief—a question of great significance that has been in need of the

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[1] See, *e.g.*, *Murthy* v. *Missouri*, 601 U. S. ___ (2023) (overriding a lower court order prohibiting the government from coercing or encouraging social media companies to censor private speech); *Garland* v. *Blackhawk Mfg. Group, Inc.*, 601 U. S. ___ (2023) (setting aside a lower court order prohibiting the government from enforcing its regulation restricting the sale of ghost guns); *FDA* v. *Alliance for Hippocratic Medicine*, 598 U. S. ___ (2023) (countermanding a lower court order staying the Food and Drug Administration's approval of mifepristone, an abortion drug).

Court's attention for some time. *DHS*, 589 U. S., at ___ (opinion of GORSUCH, J.) (slip op., at 3); *Griffin* v. *HM Florida-ORL, LLC*, 601 U. S. ___, ___ (2023) (statement of KAVANAUGH, J.) (slip op., at 3). This case also implicates an apparent circuit split, as courts of appeals have disagreed about whether district courts may issue the sort of sweeping relief the district court issued here when faced with laws very much like Idaho's. See, *e.g.*, *Brandt* v. *Rutledge*, 47 F. 4th 661, 672 (CA8 2022); *L. W.* v. *Skrmetti*, 83 F. 4th 460, 489–490 (CA6 2023). Even applying the dissent's proposed standard for relief, then, this case would seem to satisfy it.[2]

Third, the dissent suggests that the Court should exercise more "caution" and "restraint" in cases like this one, where a party does not challenge the entry of a preliminary injunction but asks us to address only the scope of the remedy it provides. *Post*, at 2, 4–5. But if "caution" and "restraint" are our watchwords, why would a party's request

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[2]The dissent seeks to downplay the "certworthiness" of this case by recasting the universal aspect of the district court's order as an "incidenta[l]" feature designed to protect the plaintiffs' anonymity. See *post*, at 3, n. 2, 4, and n. 3. But labeling universal relief incidental does not make it so. The district court faced two plaintiffs seeking access to certain specific treatments, yet it issued an order applicable to all potential nonparties and all regulated treatments. There was nothing incidental about it. Tellingly, too, the district court nowhere paused to address the adequacy of less intrusive (and truly incidental) measures to protect the plaintiffs' anonymity—for example, a sealed order, shared with pertinent state authorities and the plaintiffs' physicians, guaranteeing them access to the particular treatments they seek. Today, the Court supplies a much-needed reminder that courts cannot so easily sidestep the traditional equitable rule that the relief a federal court may issue "must . . . be limited to the inadequacy that produced the injury in fact that the plaintiff has established." *Gill* v. *Whitford*, 585 U. S. 48, 68 (2018) (internal quotation marks omitted). In doing so, the Court does not, as the dissent suggests, "ignor[e]" the district court's reason for granting universal relief. *Post,* at 4, n. 3. Rather, the Court recognizes that "aspect of the District Court's decision" for what it is—an unpersuasive departure from our precedents. *Ibid*.

for narrower rather than broader relief "counsel against our intervention"? *Post*, at 2. Do we really want to incentivize parties to seek more sweeping relief in order to enhance their chances of success in this Court? And how does it serve "caution" and "restraint" for this Court to allow lower courts to transgress foundational remedial principles more readily than foundational liability principles? Especially when pursuing that course would mean (as it does here) that a single federal judge may erroneously suspend the operation of a law adopted by the people's elected representatives for years on end? Once more, the dissent offers no answers.

Fourth, the dissent contends that we should exercise special "caution" when considering whether to intervene in "high-profile cases." *Post*, at 1. But by any measure, a great deal of caution is already baked into the *Nken* analysis. To warrant this Court's intervention, an applicant seeking a stay must make a "'strong showing'" on the merits, demonstrate an "'irreparable'" harm, and persuade the Court that the public interest warrants intervention. *Nken*, 556 U. S., at 434. The dissent does not explain why these traditional cautionary notes are insufficient.

Nor does it explain why we should reserve an added new measure of caution for "high profile" matters alone. I would have thought that, as judges, we should neither deliberately seek out nor evade "high-profile" disputes, but afford all litigants who come before us their lawful due. Even taking the dissent's test on its own terms, too, my colleagues fail to explain why this case qualifies for special caution as "high profile" but so many others in the last 12 months did not. Does anyone really think that this Court's recent interventions—in cases involving ghost guns, allegations of government censorship, and abortion access—were war-

ranted because the laws at issue there were less "high-profile" than Idaho's? See n. 1, *supra*.[3]

IV

None of this is to suggest the dissent is without a point. Perhaps the Court has seen a rise in the number of applications for interim relief. But if so, it seems to me that this trend is not the result of (nor does it justify tinkering with) this Court's precedents and traditional equitable standards. Instead, at least part of the problem may be attributable to a *departure* from those precedents and standards in the lower courts. In recent years, certain district courts across the country have not contented themselves with issuing equitable orders that redress the injuries of the plaintiffs before them, but have sought instead to govern an entire State or even the whole Nation from their courtrooms. Today, Idaho is on the receiving end of one of these universal injunctions, but lately it has often been the federal government.[4]

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[3]The dissent chides me for neglecting to mention that the State stamped the word "EMERGENCY" on the front cover of its stay application. *Post*, at 5. But it is not obvious what point the dissent is trying to make. *Post*, at 6, n. 4. In its recent stay applications, the federal government hasn't always affixed a similar stamp on its papers. See, *e.g.*, Application in No. 23A302, *Garland* v. *Blackhawk Mfg. Group, Inc.* (Oct. 5, 2023); Application in No. 23A243, *Murthy* v. *Missouri* (Sept. 14, 2023); Application in No. 22A902, *FDA* v. *Alliance for Hippocratic Medicine* (Apr. 14, 2023). Should we have denied those applications on that basis? In truth, every applicant for interim relief believes its case qualifies as an "emergency." Our traditional stay test helps us evaluate those assertions by focusing our attention on factors such as irreparable harm, the balance of equities, and the public interest. The dissent does not explain what additional value an "emergency" test would provide or what neutral principle would guide our analysis. Nor, for that matter, does the dissent square its proposed new "emergency" test with its other proposals. Take the dissent's preference for avoiding high-profile cases. See *post*, at 1, 5. Does the dissent mean to suggest that we should grant relief only in "emergencies," but only so long as they also keep a low profile?

[4]Many of this Court's recent orders granting interim relief were the

As best I can tell, universal injunctions are a relatively new phenomenon. By some accounts, universal injunctions against the federal government during President Franklin D. Roosevelt's tenure—those 12 eventful years covering the Great Depression, the New Deal, and most of World War II—were virtually unknown. See Bray, 131 Harv. L. Rev., at 434–435. Others have pointed to a single example of a "nation-wide" decree during that period, but there the Court *reversed* the lower court's "sweeping" ruling for lack of standing. *Perkins* v. *Lukens Steel Co.*, 310 U. S. 113, 117, 120–121 (1940). Even as late as President Barack Obama's administration, some estimate that lower courts issued only about 19 universal injunctions against the federal government over the course of eight years. See Dept. of Justice, J. Rosen, Opening Remarks at Forum on Nationwide Injunctions and Federal Regulatory Programs (Feb. 12, 2020). Since then, however, universal injunctions have proliferated. By one count, lower courts issued 55 universal injunctions during the first three years of President Donald Trump's administration. *Ibid.* And if the last 12 months are any indication, it seems that trend has continued apace during the administration of President Joseph R. Biden, Jr. See, *e.g.*, n. 1, *supra* (citing examples).

A rising number of universal injunctions virtually guarantees that a rising number of "high-profile" cases will find their way to this Court. Just consider this case. Idaho does not challenge the district court's injunction to the extent it addresses the plaintiffs' asserted injuries. The State seeks relief here only because and to the extent the district court prevented it from enforcing any aspect of its duly enacted

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product of a different and unrelated problem: the profound "intrusions on civil liberties" governments attempted in response to COVID–19. *Arizona* v. *Mayorkas*, 598 U. S. ___, ___ (2023) (statement of GORSUCH, J.) (slip op., at 4). And, "[n]ot surprisingly," the number of requests for interim relief in this Court "has shrunk in the years since COVID–19." *Post*, at 11, n. 5 (KAVANAUGH, J., concurring in the grant of stay).

law against anyone—all without any showing that other provisions in the statute violate federal law or the rights of any current party. As in so many other recent cases, the district court's universal injunction effectively transformed a limited dispute between a small number of parties focused on one feature of a law into a far more consequential referendum on the law's every provision as applied to anyone.

What's worse, universal injunction practice is almost by design a fast and furious business. Normally, parties spend "their time methodically developing arguments and evidence" before proceeding to a trial and final judgment limited to the persons and claims at hand. *DHS*, 589 U. S., at ___ (opinion of GORSUCH, J.) (slip op., at 3). If they seek relief for a larger group of persons, they must join those individuals to the suit or win class certification. In universal-injunction practice, none of that is necessary. Just do a little forum shopping for a willing judge and, at the outset of the case, you can win a decree barring the enforcement of a duly enacted law against anyone. Once that happens, the affected government (state or federal) will often understandably feel bound to seek immediate relief from one court and then the next, with the finish line in this Court. After all, if the government does not act promptly, it can expect a law that the people's elected representatives have adopted as necessary and appropriate to their present circumstances will remain ineffectual for years on end. In all these ways, universal injunctions circumvent normal judicial processes and "tend to force judges into making rushed, high-stakes, low-information decisions" at all levels. *Id.*, at ___ (opinion of GORSUCH, J.) (slip op., at 4).

Today, the Court takes a significant step toward addressing the problem. It does so not by reworking our precedents and traditional equitable practices, but by enforcing them. It focuses directly on a root cause of the recent proliferation of interlocutory litigation in "high profile" matters, sets

aside a district court's universal injunction, and in the process reminds lower courts of the foundational rule that any equitable remedy they issue must not be "more burdensome to the defendant than necessary to [redress]" the plaintiff's injuries. *Califano*, 442 U. S., at 702.

Lower courts would be wise to take heed. Retiring the universal injunction may not be the answer to everything that ails us. But it will lead federal courts to become a little truer to the historic limits of their office; promote more carefully reasoned judicial decisions attuned to the facts, parties, and claims at hand; allow for the gradual accretion of thoughtful precedent at the circuit level; and reduce the pressure on governments to seek interlocutory relief in this Court. A return to a more piecemeal and deliberative judicial process may strike some as inefficient. It may promise less power for the judge and less drama and excitement for the parties and public. But if any of that makes today's decision wrong, it makes it wrong in the best possible ways, for "good judicial decisions are usually tempered by older virtues." *DHS*, 589 U. S., at ___ (slip op., at 4).