

No. 20-1627

In the Supreme Court of the United States

RICHARD DUCOTE, ESQ., VICTORIA MCINTYRE, ESQ.,
& S.S.,

Petitioners,

v.

S.B.,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Pennsylvania

**PETITIONERS' REPLY TO BRIEF IN
OPPOSITION**

RICHARD L. DUCOTE, ESQ.

Counsel of Record & In Proper Person

VICTORIA E. MCINTYRE, ESQ.

In Proper Person & Counsel for Petitioners

318 E. Boston Street, Floor 2

Covington, Louisiana 70433

rducote@ducotelaw.com

(985) 898-2755

TABLE OF CONTENTS

Table of Authorities.....	i
I. The Gag Order at Issue Cannot Lawfully be Predicated on the Imagined.	1
II. The Gag Order Unquestionably Prevents Petitioners, in Violation of Their First Amendment Free Speech Rights, from Engaging in Open Discussions of Issues of Public Importance, because Without the Ability to Connect the Discourse to the Underlying Custody Case Involving Petitioner S.S., Petitioners’ Opinions and Commentary Lack Context and Impact. Thus, Petitioners are Wrongfully Hogtied in Their Criticism of the Courts.	2
Conclusion.....	6

TABLE OF AUTHORITIES

CASES

<i>Beaufort County Board of Education v.</i> <i>Beaufort County Board of Commissioners,</i> 645 S.E.2d 857 (N.C. Ct. App. 2007)	2
<i>Citizens United v. Fed. Election Comm'n,</i> 558 U.S. 310 (2010)	4
<i>E.I. DuPont de Nemours and Co. v. Aquamar, S.A.,</i> 33 So.3d 839 (Fla. Dist. Ct. App. 2010)	2
<i>Frank v. Mercer County,</i> 186 N.W.2d 439 (S.D. 1971)	2
<i>Harwell v. State,</i> 93 So.366 (Miss. 1922)	2

<i>Jolly v. Industrial Commission</i> , 173 N.E. 131 (Ill. 1930)	2
<i>Ligenza v. White Foundry Co., Inc.</i> , 56 A.2d 580, 583 (N.J. 1948).....	2
<i>Logreira v. Logreira</i> , 3D21-0919, 2021 WL 2212634 (Fla. Dist. Ct. App. June 9, 2021)	5
<i>N.Y. Times Co. v. Sullivan</i> , 376 U.S. 254 (1964)	3, 4
<i>Nebraska Press Association v. Stuart</i> , 427 U.S. 539 (1976)	2
<i>Overby v. Mayor of Baltimore</i> , 930 F.3d 215 (4th Cir. 2019)	3
<i>Rosenblatt v. Baer</i> , 383 U.S. 75 (1966)	3
<i>S.B. v. S.S.</i> , 74-WDA-2017, 2017 WL 4848400 (Pa. Super. Ct. Oct. 20, 2017)	4
<i>State ex rel. Toledo Blade Co. v. Henry County Court of Common Pleas</i> , 926 N.E.2d 634 (Ohio 2010)	2
<i>Twohig v. Blackmer</i> , 916 P.2d 332 (N.M. 1996)	2

OTHER AUTHORITIES

Rebecca Collett, <i>Court Ordered Program Destroys Family and Lacks Oversight, Mom Claims</i> , COUNT ON NEWS 2 (Nov. 12, 2019), https://www.counton2.com/news/local-news/court-ordered-program-destroys-family-and-lacks-oversight-mom-claims/	5
Toriano Porter, <i>Judge Sent Kids of MLB Vet From KCK to Controversial Reunification Camp</i> , THE KANSAS CITY STAR (July 9, 2021), https://www.kansascity.com/opinion/opn-columns-blogs/toriano-porter/article252657173.html#storylink=cpy	5

In the Supreme Court of the United States

RICHARD DUCOTE, ESQ., VICTORIA MCINTYRE, ESQ.,
& S.S.,

Petitioners,

v.

S.B.,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Pennsylvania

**PETITIONERS' REPLY TO BRIEF IN
OPPOSITION**

May it Please the Court:

Petitioners reply to Respondent's *Brief in Opposition* in pertinent parts as follows:

**I. THE GAG ORDER AT ISSUE CANNOT
LAWFULLY BE PREDICATED ON THE IMAGINED.**

Conceding that no evidence whatsoever concerning the child's best interest was introduced below to support the gag order contested here, Respondent invites the Court to instead "*imagine* the profound stigma suffered by a child" were Petitioners allowed to exercise their First Amendment rights [Brief in Opposition, p. 9, n. 13]

[italics added]. Respondent, perhaps inadvertently, suggests in his footnote 13 that, if the facts of this case were known to others, the child's sworn testimony from the witness stand cited in the petition would be believed.

However, any requisite factual findings upon which a legitimate gag order is based must be rooted in evidence instead of speculation. *Nebraska Press Association v. Stuart*, 427 U.S. 539, 563-567 (1976). See also *State ex rel. Toledo Blade Co. v. Henry County Court of Common Pleas*, 926 N.E.2d 634, 642-645 (Ohio 2010); *Twohig v. Blackmer*, 916 P.2d 332, 337-341 (N.M. 1996); *Beaufort County Board of Education v. Beaufort County Board of Commissioners*, 645 S.E.2d 857, 861-863 (N.C. Ct. App. 2007); *E.I. DuPont de Nemours and Co. v. Aquamar, S.A.*, 33 So.3d 839 (Fla. Dist. Ct. App. 2010). "Imagination" does not equal "evidence." See, e.g., *Jolly v. Industrial Commission*, 173 N.E. 131, 132 (Ill. 1930); *Harwell v. State*, 93 So.366 (Miss. 1922); *Ligenza v. White Foundry Co., Inc.*, 56 A.2d 580, 583 (N.J. 1948); *Frank v. Mercer County*, 186 N.W.2d 439, 445-446 (S.D. 1971). In this juridical arena, John Henry Wigmore upstages John Lennon.

II. THE GAG ORDER UNQUESTIONABLY PREVENTS PETITIONERS, IN VIOLATION OF THEIR FIRST AMENDMENT FREE SPEECH RIGHTS, FROM ENGAGING IN OPEN DISCUSSIONS OF ISSUES OF PUBLIC IMPORTANCE, BECAUSE WITHOUT THE ABILITY TO CONNECT THE DISCOURSE TO THE UNDERLYING CUSTODY CASE INVOLVING PETITIONER S.S., PETITIONERS' OPINIONS AND COMMENTARY LACK CONTEXT AND IMPACT. THUS,

PETITIONERS ARE WRONGFULLY HOGTIED IN THEIR CRITICISM OF THE COURTS.

Respondent adopts the hollow assertion embraced by the Pennsylvania courts below that Petitioners can essentially say anything, anywhere, at any time, concerning problems in the family courts' handling of child custody cases with abuse allegations—provided that Petitioners offer nothing personal in support of their complaints.

In *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966), this Court said:

There is, first, a strong interest in debate on public issues, and second, a strong interest in debate about those persons who are in a position significantly to influence the resolution of those issues. Criticism of government is at the very center of the constitutionally protected area of free discussion.

As the Fourth Circuit Court of Appeals recently noted in *Overby v. Mayor of Baltimore*, 930 F.3d 215, 223-224 (4th Cir. 2019):

Famously, one of the interests at the heart of the First Amendment is “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964)....; see also *Citizens United v. Fed. Election*

Comm'n, 558 U.S. 310, 339, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010) (“The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it.”)... Standing shoulder to shoulder with the citizenry's interest in uninhibited, robust debate on public issues is this nation's cautious “mistrust of governmental power.” *Citizens United*, 558 U.S. at 340, 130 S.Ct. 876.

Moreover, as the Court emphatically instructed, constitutionally protected discourse on public issues “*may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.*” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (*italics added*).

As explained in the Petitioners’ certiorari petition, in the underlying custody case in which Petitioner S.S. lost all custody and contact with her young son, the Pennsylvania family court and appellate courts relied on the discredited “parental alienation” theory and abruptly sent the child to the much criticized and highly controversial “Family Bridges” reunification camp. *See S.B. v. S.S.*, 74-WDA-2017, 2017 WL 4848400 (Pa. Super. Ct. Oct. 20, 2017).

The public debate on, and judicial responses to these problems in our nation’s family courts continue beyond the citations set forth in the instant petition for writ of certiorari. Very recently, a Florida appellate court confronted and corrected the

decision of a family court which eerily mirrored the fate befallen S.S. and her son here. In *Logreira v. Logreira*, 3D21-0919, 2021 WL 2212634 (Fla. Dist. Ct. App. June 9, 2021), two children were abruptly removed from their mother’s custody, given to the sole custody and control of their father, and then shipped off to Family Bridges to cure their “Parental Alienation Syndrome.” The mother, whose contact with her kids was terminated, argued that the relationship between them and their father was caused by his own abuse and neglect. The father blamed the mother for the teenagers’ rejection of him. The appellate court reversed the ruling as an unconstitutional due process violation, and pointed out the abundant rejection of “parental alienation” in the scientific and legal fields. *See id.* at n. 2.

Additional media exposés of the Family Bridges’ alarming intrusion into the family courts include *Court Ordered Program Destroys Family and Lacks Oversight, Mom Claims*¹ and *Judge Sent Kids of MLB Vet From KCK to Controversial Reunification Camp*.²

Unquestionably, Petitioners have lived at ground zero of these controversies for over four years now. Their experience-based perspective is certainly

¹ Rebecca Collett, COUNT ON NEWS 2 (Nov. 12, 2019), <https://www.counton2.com/news/local-news/court-ordered-program-destroys-family-and-lacks-oversight-mom-claims/>.

² Toriano Porter, THE KANSAS CITY STAR (July 9, 2021), <https://www.kansascity.com/opinion/opn-columns-blogs/toriano-porter/article252657173.html#storylink=cpy>.

richly relevant to the public debates, and to the legal commentary examining the judicial system most significantly affecting the lives of young children. To force Petitioners to answer in the public forum the question, “*How do you know what you say about the courts is true?*” with “*I can’t tell you or I’ll be sent to jail!*” is to eviscerate the First Amendment, reducing its rights and protections to illusion.

CONCLUSION

For the foregoing reasons and those set forth in the original petition, the Court should grant certiorari.

Respectfully submitted,

RICHARD L. DUCOTE, ESQ.

*In Proper Person &
Counsel of Record*

VICTORIA E. MCINTYRE, ESQ.

*In Proper Person &
Counsel for Petitioners*

September 14, 2021