

No. 24-6500

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Supreme Court of the United States

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A.N.,  
*Petitioner,*

v.  
Louisiana Department of Children and Family Services,  
*Respondent.*

Respondent's Brief in Opposition to a Writ of Certiorari  
to the Louisiana Supreme Court and  
Louisiana First Circuit Court of Appeal

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**Respondent's Opposition to Petition for Writ of Certiorari**

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### Questions Presented

1. Whether A.N.'s parental rights were properly terminated when the lower appellate court determined that introduction of certain hearsay evidence was harmless error in light of other uncontroverted evidence showing that A.N. had a history of mental illness.
2. Whether proof of one ground of Louisiana's termination statute permitting termination of parental rights based on the showing of the parent's failure to pay parental contributions for any period of six consecutive months, combined with showing that the parent failed to substantially comply with a case plan for reunification with a child, violated a parent's liberty interest to the custody and care of her child.

## PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b), the following list identifies the parties appearing before the Supreme Court of Louisiana:

1. Petitioner, A.N., the biological mother of K.C.N. is represented by Jane Hogan, Hogan Attorneys, 310 North Cherry Street, Hammond, Louisiana 70401.
2. Respondent, the Louisiana Department of Children and Family Services is represented by Sandra Baum Terrell, 300 Covington Center, Suite 1, Covington, Louisiana 70433.
3. The child, K.C.N. is represented by Betsy Smith, 21489 Koop Drive, Suite 1, Mandeville, Louisiana 70471.
4. K.J., the biological father, is represented by Terrell Dupard, 412 North 4<sup>th</sup> Street, Suite 102, Baton Rouge, Louisiana 70802.

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## OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondent, the Louisiana Department of Children and Family Services, respectfully opposes Petitioner's, A.N.'s, petition for a writ of certiorari to review the judgments of the Louisiana Supreme Court and Louisiana First Circuit Court of Appeal.

### OPINIONS BELOW

The opinion of the Court of Appeal, rendered on May 24, 2024, is unreported and is referred to as Petitioner Appendix A. The writ denial of the Louisiana Supreme Court is reported at *State in the Interest of K.C.N.*, 391 So. 3d 1059 (La. 09/04/24) and is referred to as Petitioner Appendix B. The juvenile court's written reasons for the judgment terminating A.N.'s parental rights is referred to as Petitioner Appendix C.

### JURISDICTION

The judgment of the Louisiana Supreme Court was issued on September 4, 2024. Pet. App. B. This opposition was timely filed on or before April 9, 2024. This Court has jurisdiction pursuant to 28 U.S.C. Sec. 1254(1).

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C.A. sec. 2403 (b) provides grounds for denying Petitioner's challenge to the constitutionality of Louisiana's abandonment insofar as Petitioner failed to follow proper procedure to raise the issue before this Court, to wit:

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to

the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

Louisiana Children's Code Article 1015 provides the grounds for termination of parental rights that are pertinent to this case, to wit:

(4) Abandonment of the child by placing him in the physical custody of a nonparent, or the department, or by otherwise leaving him under circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:

(b) As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of six consecutive months.

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from a parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the return of the child; and despite earlier intervention there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable and permanent home.



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## INTRODUCTION

A.N.'s fourth child, K.C.N. was born on April 19, 2022 while A.N. was incarcerated, being without bond on a charge of obstruction of justice. Being without a legal caretaker, K.C.N. was placed in the custody of the Louisiana Department of Children and Family Services. During the investigation, A.N. admitted that she was homeless and had been bouncing around. She refused to identify a father or relatives to care for the K.C.N. A.N. had lost custody of her three older children in other states. A.N. was released from jail in August 2022. Although she attended hearings and visits with her child, A.N. refused to provide her address for an assessment of its safety until April 2023. She was later evicted from that residence. K.C.N.'s medical records from his birth revealed that A.N. had recently been hospitalized for mental illness in 2019, 2020 and 2021. A.N. did attend a psychological evaluation in March 2023 and it was recommended that she attend a psychiatric evaluation. A.N. did not attend the second evaluation. Moreover, A.N. reported four different jobs throughout the life of the case but this was never verified with any type of documentation. Of the four jobs, she quit one, was fired from one and she never made clear the status of the other two. One thing was clear, she never provided proof of any income throughout the life of the case.

Petitioner wants this Court to believe that the juvenile court terminated A.N.'s parental rights, 1) based solely on inadmissible hearsay – namely, CPS records from Texas and Colorado that revealed, *inter alia*, allegations of A.N.'s mental illness diagnoses and, 2) that the juvenile court minimized A.N.'s case plan compliance. To

the contrary, the juvenile court based its ruling on the very clear evidence of A.N.'s failure to establish any stability in her life such as housing and employment, the uncontested evidence of A.N.'s recent psychiatric hospitalizations and her failure to undergo a psychiatric evaluation and engage in treatment. Further, A.N. failed to consistently make parental contributions for K.C.N., which were required as part of her case plan.

The Louisiana First Circuit affirmed the trial court judgment by a 2 out of 3-majority vote, not a narrow majority, as stated by Petitioner. The Court of appeal determined that the introduction of the Texas and Colorado CPS records was harmless error in light of the other uncontested evidence. The Louisiana Supreme Court denied A.N.'s writ for certiorari.

K.C.N., three years old now, is living and thriving with the only family that he has ever known. K.C.N. has a foster sibling with whom he is bonded to and foster parents, also bonded to, who love, protect and provide him with safety and stability. All of which K.C.N. would have been deprived of had the lower courts not terminated A.N.'s parental rights.

#### STATEMENT OF THE CASE

A.N. gave birth to her fourth child, K.C.N., on April 19, 2022, while A.N. was incarcerated and held without bond at the St. Tammany Parish Jail on a charge of obstruction of justice. A.N.'s three older children were not in her custody; two of which had been removed from her custody and later adopted through child protective services in Texas and Colorado. The third child was in the custody of its father.

K.C.N., born without a legal caretaker was placed in the custody of the Louisiana, Department of Children and Family Services (hereinafter DCFS) on April 22, 2022, through an Instanter Order issued by the Honorable Judge Scott Gardner. Pet. App.

A. p. 2

During the DCFS investigation it was learned that prior to A.N.'s incarceration, she was homeless and further, A.N. refused to provide DCFS investigators with a last known address. DCFS also learned that A.N. had bounced around with no established residence and she recently had been hospitalized in a psychiatric hospital, but she was not forthcoming with her diagnosis. A.N. refused to identify K.C.N.'s father nor would she identify relatives to care for the child. Pet. App. A. p. 2. After removal, DCFS received medical records from K.C.N.'s birth, which showed that A.N. had had three psychiatric hospitalizations in 2019, 2020 and 2021 and, that she had lived in homeless shelters in New Orleans and Baton Rouge. Pet. App. A. p. 7.

K.C.N. was adjudicated a Child in Need of Care on June 22, 2022, and he was formally placed in DCFS custody on July 12, 2022. At the disposition, the Court approved the initial case plan, dated June 1, 2022, and ordered A.N. to comply with the requirements of the case plan. A.N.'s case plan provided that she follow the action steps, *inter alia*, set forth below:

1. Obtain and maintain legal employment, safe and stable housing, and provide proof of income/employment on a monthly basis.
2. Complete a mental health evaluation and follow all recommendations of the provider.
3. Complete a substance abuse evaluation and follow all recommendations of the provider. Submit to random drug screens and maintain a sober lifestyle.

4. Keep DCFS informed of their whereabouts and informed of who is living in the home.
5. Resolve legal issues, inform the agency of new arrests and follow all guidelines of law enforcement.
6. Attend and complete a parenting program with Renew Family Resource Project or an agency approved provider and demonstrate learned skills and age-appropriate interaction during visits with the child.
7. Pay \$25.00/month in parental contributions and provide proof of payments monthly.
8. Attend all meetings, hearings and visits with the child.

A.N. was released from jail in August 2022. Pet. App. A, p. 3.

During the permanency hearing on April 19, 2023, A.N.'s case manager testified that A.N. had not substantially complied with her case plan for reunification. A.N. had not provided information of nor verified employment or housing. Nor had A.N. made additional parental contributions or completed a psychiatric evaluation. A.N. did visit consistently and completed an online parenting course. The court approved the recommended goal change to adoption because A.N. had not substantially complied with her case plan and she had not removed the threats of danger and safety concerns for K.C.N. The court also ordered A.N. to participate in a psychiatric evaluation. Pet. App. A. pp. 3-4.

Shortly after the permanency hearing, A.N. provided DCFS with an address and it was learned that she had signed a lease in December 2022 but A.N. had not been forthcoming with that information.<sup>1</sup> The home was assessed and DCFS deemed it appropriate. However, A.N. was evicted from that residence in August 2023.

The termination trial was conducted on August 16 and 23, 2023 and A.N.'s parental rights were terminated. Throughout the life of this case A.N.'s employment

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<sup>1</sup> This was approximately eight months after A.N. was released from jail in August 2022.

status was difficult to ascertain. However, A.N. did report at the termination hearing that she had held four jobs during the life of the case: 1) an eight week program that paid her; 2) a lab assistant job that she was fired from; 3) Family Dollar, but she quit; and, 4) lastly, working for Uber. A.N. never provided documentary evidence of any employment or earnings. Pet. App. A. pp. 7-10.

Further, AN's mental health was of great concern to DCFS considering AN's three recent psychiatric hospitalizations and AN's history of homelessness and overall instability. She did attend a psychological evaluation with Ralph Salcedo, PhD who recommended a psychiatric evaluation. DCFS referred A.N. for a psychiatric evaluation with Center of Hope in New Orleans but it was cancelled due to A.N. advising the provider that she did not have any prior mental health problems. A.N. later reported to DCFS that she underwent a psychiatric evaluation at River Oaks Hospital however, DCFS learned that River Oaks had no such records of an evaluation of A.N. Pet. App. A. pp. 7-10.

The evidence showed that as of the date of the filing of the petition to terminate parental rights, May 26, 2023, A.N. had made no further parental contributions since November 14, 2022. A.N. had not participated in a psychiatric evaluation. A.N. had been evicted from her home and allegedly she was moving to a new apartment, but she would not provide the address. AN, when questioned during the termination trial about the eviction and her current housing, could not provide the address of the alleged new apartment that she had acquired after the eviction. Pet. App. A. pp. 7-11.

In light of A.N.'s significant history of instability and untreated mental illness, DCFS averred that there was no substantial likelihood of reformation of A.N. in the near future and that it was in K.C.N.'s best interest to terminate AN's parental rights as he had been in the same home since his birth and he was securely attached and bonded to his caretakers and the other child in the home. The trial court signed a judgment terminating AN's parental rights and issued Notice to all parties. In its Reasons for Judgment, the trial court succinctly noted, *inter alia*:

1. There was overwhelming evidence of the mother's untreated or undertreated mental illness. All the records, history and court's personal observance during the mother's testimony made that very clear. During her testimony, she was manipulative and selective. Her willful and deliberate falsehoods for the purpose of deceiving the court mitigated against her credibility and her ability to parent an infant.
2. She has moved several times during the pendency of the case and was evicted at least once. Most notably, she has refused to provide her address to her Case Worker so that a home study could be done.
3. She claimed to have participated in several non-profit training programs and to have earned some skill certificates. However, the only employment that she was able to obtain was at Dollar Store, a job that lasted only a short time.... At no time did she provide any evidence of any earnings.
4. She had paid a total of \$275.00 towards the child's care with the last payment being made more than 6 months prior to the hearing.
5. As to her mental health evaluation, she only completed a portion of the testing and told the Agency that she had had no prior mental health issues or treatment. After being ordered to provide records of her recent treatment at River Oaks Hospital she refused.
6. A.N.'s denials of an overwhelming number of third-party observations and records are neither credible nor worthy of belief. At best they are further evidence of mental illness, delusional grandiosity, and conspiratorial accusations without any basis in fact, or any degree of trustworthiness. In the alternative, a substantial portion of her statements were either

manipulative, or deliberate attempts to deceive the court on material issues of fact.

7. The child has permanency awaiting with a loving, appropriate, certified foster family with demonstrated capacity to love, care for, and raise him. Removal of the child from the only family he has ever known, now or in the future, to place in the custody of an unfit mother would be a disaster to his health, safety and well-being and unconscionable.

Pet. App. C.

From that judgment, the mother filed an appeal to the Louisiana First Circuit Court of Appeal. The appellate court affirmed not narrowly as petitioner states but rather in a two out of three-majority vote, that DCFS met its burden on all grounds. The appellate court conceded that the out of state child welfare records were inadmissible hearsay but it deemed the admission as harmless error because those records were not the only evidence of A.N.'s mental health issues in light of A.N.'s own testimony about her mental health diagnoses when she lived in Texas, acknowledgement that she had been referred for a psychiatric evaluation. Moreover, K.C.N.'s uncontested medical records from St. Tammany Parish Hospital noting A.N.'s history of mental illness and recent psychiatric hospitalizations. App. A., pp. 7, 9, 12

Petitioner, however, relies heavily on Justice Greene's dissenting opinion to the finding of the Court of Appeal. Respectfully, Justice Greene glosses over A.N.'s previous and current evidence of instability and mental health concerns. Moreover, at the termination hearing A.N. had been evicted from her home. Once again homeless, just as she was prior to her involvement with DCFS. Justice Greene opines

about parental contributions that “at least A.N. had paid something.” Yes, she paid, something but stability comes from consistency, which A.N. didn’t establish.

A.N. timely sought review to the Louisiana Supreme Court, which denied her application on September 4, 2024. Thereafter A.N. timely filed for a writ of certiorari with this Court.

## REASONS NOT TO GRANT THE PETITION

I. The state courts properly found that admission of hearsay evidence was harmless error in light of other uncontroverted and significant evidence and testimony which supported the fact that A.N. did not substantially comply with her case plan for reunification and it was in the child's best interest that parental rights are terminated.

i. The Court of Appeal properly found the introduction of hearsay evidence was harmless error.

DCFS offered into evidence child welfare records from Texas and Colorado which were admitted pursuant to records of a regularly conducted business activity. The trial court admitted those records. The First Circuit agreed that they were inadmissible hearsay but deemed their admission harmless error in light of the other uncontroverted evidence showing that A.N. had a history of mental illness. A.N. testified that she was first diagnosed with major depressive disorder when she lived in Texas. The medical records from K.C.N.'s birth noted A.N.'s past medical history or mental health disorder and previous psychiatric hospitalizations and that A.N. herself admitted to and that she had been referred for a psychiatric evaluation. In light of the other evidence presented, A.N. had not been deprived of her right to a fundamentally fair hearing. Pet. App. A, P. 12.

ii. A.N. did not substantially comply with her case plan for reunification with her child.

Louisiana Children's Code Article 1015 provides ten grounds for termination of parental rights. Each of the grounds relates to a person's inability to parent their

child, where the parent exhibited conduct that indicates that he or she cannot provide for the child's health, safety and permanence. ASFA, Adoption and Safe Families Act 42 U.S.C. 601 et seq., P.L. 105-89 (ASFA), requires decision-makers to focus on the children's health and safety as the paramount concern, not on extending the time for a parent to complete a case plan. The State must establish at least one statutory ground, and the trial judge must also find that termination is in the best interest of the child. DCFS is only required to prove one ground for termination of parental rights. *State in the Interest of W.S.*, 93-0791408 (La. App. 1 Cir. 10/15/93) 626 So.2d 408. *State in the Interest of V.T.*, 24586-JA (La. App. 2d Cir 12/2/92) 609 So.2d 1105 writ denied, 614 So.2d 1269 (La. 1993).

Whether a parent is "unfit" or whether the parent is likely to reform are questions of fact. *State in the Interest of M.R.R. v. John R.*, 628 So.2d 1301 (La.App. 3 Cir. 1993). Any case to involuntarily terminate parental rights must balance the rights of the parents to raise their children with the children's interest in establishing secure, stable, long-term, and continuous relationships found in a home with proper parental care. The courts of this state have consistently found the interest of the child to be paramount over that of the parent. *State ex rel. K.G.*, 02-2886, p.5 (La.3/18/03), 841 So.2d 759, 762.

DCFS filed for termination of A.N.'s parental rights under La. Ch. C. Art. 1015 (4)(b) and section 5, which specifically provides:

- (4) Abandonment of the child by placing him in the physical custody of a nonparent, or the department, or by otherwise leaving him under

circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:<sup>2</sup>

(b) As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of six consecutive months.

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from a parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the return of the child; and despite earlier intervention there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable and permanent home.

The first element of La. Ch.C. art. 1015(5) requires that the child be removed from the parent's custody for one year. It was uncontested that K.C.N. was placed in DCFS' custody on April 22, 2022, and remained in custody since that date. DCFS met its burden by clear and convincing evidence that the child was in DCFS' custody for over one year.

The second element of La. Ch.C. Art. 1015(5) requires that DCFS show it previously filed case plans for services, which were approved by the court as necessary for the safe return of the child. It was uncontested that DCFS prepared case plans which were approved by the juvenile court.

The third element of Article 1015(5) requires proof that there has been no substantial parental compliance by the parents. The method of proving this ground is set forth in La. Ch. C. Art. 1036(C) and (D), which states as follows:

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<sup>2</sup> At the time of these proceedings in the lower courts, LA Ch.C. art. 1015 4(b) and 5 were numbered as 1015 5(b) and 6.

C. Under Article 1015(5), lack of parental compliance with a case plan may be evidenced by one or more of the following:

- (1) The parent's failure to attend court-approved scheduled visitation with the child.
- (2) The parent's failure to communicate with the child.
- (3) The parent's failure to keep the department apprised of the parent's whereabouts and significant changes affecting the parent's ability to comply with the case plan for services.
- (4) The parent's failure to contribute to the costs of the child's foster care, if ordered to do so by the court when approving the case plan.
- (5) The parent's repeated failure to comply with the required program of treatment and rehabilitation services provided in the case plan.
- (6) The parent's lack of substantial improvement in redressing the problems preventing reunification.
- (7) The persistence of conditions that led to removal or similar potentially harmful conditions.
- (8) (a) The parent's failure to provide a negative test result for all synthetic or other controlled dangerous substances, except for any drug for which the parent has lawfully received a prescription, at the completion of a reasonable case plan.

D. Under Article 1015(5), lack of any reasonable expectation of significant improvement in the parent's conduct in the near future may be evidenced by one or more of the following:

- (1) Any physical or mental illness, mental deficiency, substance abuse, or chemical dependency that renders the parent unable or incapable of exercising parental responsibilities without exposing the child to a substantial risk of serious harm, based upon expert opinion or **based upon an established pattern of behavior** (emphasis added).
- (2) A pattern of repeated incarceration of the parent that has rendered the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time.
- (3) Any other condition or conduct that reasonably indicates that the parent is unable or unwilling to provide an adequate permanent home for the child, based upon expert opinion or **based upon an established pattern of behavior** (emphasis added).

Reformation sufficient to prevent termination of parental rights requires that the parent demonstrate a substantial change, such as significantly altering or modifying that behavior which served as the basis for and resulted in the State's

removal of the child. *State in Interest of T.L.* 2021-0728 (La. App. 1 Cir. 12/22/21), 340 So. 3rd 4, 12, writ denied, 2022-00170 (La. 2022-00170 (La. 3/2/22), 333 So. 3d 827.

The Court of Appeal properly affirmed the juvenile court's finding that A.N. failed to substantially comply with case plan citing that 1) A.N. failed to comply with her required mental health evaluation and follow-up treatment; 2) A.N. failed to maintain employment and provide proof of earnings as required by her case plan; 3) A.N. failed to make monthly parental contributions as required by her case plan; and, 4) A.N. failed to keep the agency apprised of her whereabouts and provide safe and stable housing and, that there was no likelihood of significant reformation in the near future. Pet. App. P. 14-15. All made very clear from the uncontroverted medical records, multiple psychiatric hospitalizations and A.N.'s own testimony about mental health treatment in Texas. Moreover, A.N. had a pattern of instability as shown by her actions in the case an her own admitted homelessness prior to K.C.N.'s removal from her custody.

iii. Termination of A.N.'s parental rights were in the best interest of K.C.N.

La. Ch.C. art 1001 sets forth that the purpose of a termination of parental rights proceeding is to "protect children whose parents are unwilling or unable to provide safety and care adequate to meet their physical, emotional and mental health needs. In all proceedings, the primary concern is to secure the best interest of the child if a ground justifying termination of parental rights is proven. Our judicial system must protect the child's right to thrive and survive. A child has an interest

in the termination of parental rights that may inhibit the child's establishment of secure, stable, long term, family relationships. *State in the Interest of A.L.D. and L.S.D.*, 2018-CJ-1271, 263 So.3d 860, 870-871, (La. 2019). The focus of an involuntary termination proceeding is not whether the parent should be deprived of custody, but whether it is in the best interest of the child for all legal relations with the parent to be terminated. *State ex rel. J.A.*, 99-2905 (La. 1/20/00), 752 So.2d 806. ***Consideration of the child's best interest shall include consideration of the child's attachment to his current caregiver*** (emphasis added). LA Ch.C. art. 1037(B).

More than simply protecting parental rights, our judicial system is required to protect the children's rights to thrive and survive. *State in Interest of GA*, 664 So.2d at 114 (citing *State in Interest of JL*, 93 352 (La.App. 3 Cir. 5/18/94), 636 So.2d 1186, 1192). Furthermore, a child has an interest in the termination of rights that prevent adoption and inhibit that child's establishment of secure, stable, long term, continuous family relationships. *State in Interest of J.M.*, 837 So.2d 1247 (La. 2003); *State in the Interest of T.S.B.*, 532 So.2d 866 (La.App. 4 Cir.1988), writ denied, 536 So.2d 1239 (La.1989). While the interest of a parent is protected in a termination proceeding by enforcing the procedural rules enacted to ensure that parental rights are not thoughtlessly severed, those interests must ultimately yield to the paramount best interest of the children. See *State in Interest of T.S.B.*, *supra*; *State in Interest of S.A.D.*, 481 So.2d 191 (La.App. 1 Cir.1985); *State in Interest of A.E.*, 448 So.2d 183 (La.App. 4 Cir.1984); *State in Interest of Driscoll*, 410 So.2d 255 (La.App. 4 Cir.1982)."

See *State in The Interest of D.T.*, 99-2849, 744 So.2d 1281, 1282-1283 (La. 1999).

The focus and primary concern since April 19, 2023, the date that the juvenile court approved the permanent plan of adoption, was achieving permanency for K.C.N. and termination of parental rights was the next procedural step in achieving that goal. The evidence abundantly supported that termination of parental rights was in K.C.N.'s best interest. Ms. Michele testified at the termination trial that K.C.N. was placed in a certified foster home and that he had been in that placement since his birth. He was thriving and securely attached to his caretakers and also bonded with the foster parents' three-year-old child. The juvenile court noted that K.C.N. had permanency awaiting with "a loving, appropriate, certified foster family with demonstrated capacity to love, care for, and raise him." The juvenile court further noted that removing K.C.N. from the only family that he had ever known and placing him with A.N. would be "a disaster for his health, safety and well-being and unconscionable. After reviewing the entire record, the court of appeal found that a reasonable factual basis existed to terminate A.N.'s parental rights. Pet. App. P. 17.

**II. The issue of the constitutionality of Louisiana's abandonment statute is not properly before this Court.**

A.N. is barred from raising the constitutionality of LA. Ch.C. art. 1015 (4)(b) before this Court as this issue was not raised in the lower courts nor was it properly raised before this Court pursuant to 28 U.S.C.A. sec. 2403 (b) which states as follows, to wit:

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the

constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

28 U.S.C.A. sec. 2403 (b).

Accordingly, this issue is not before this Court in the proper procedural posture and Respondent requests that this Court decline to address the issue of constitutionality of LA Ch.C. art. 1015 (4) (b).

### CONCLUSION

For the foregoing reasons the petition for writ of certiorari should be denied.

Respectfully submitted April 9, 2025.



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Supreme Court of the United States

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A.N.,  
*Petitioner,*

v.  
Louisiana Department of Children and Family Services,  
*Respondent.*

Respondent's Brief in Opposition to a Writ of Certiorari  
to the Louisiana Supreme Court and  
Louisiana First Circuit Court of Appeal

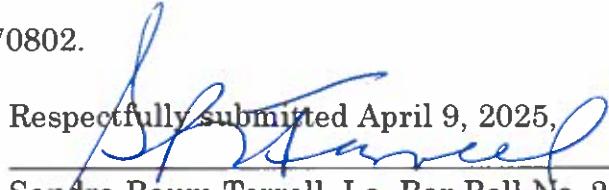
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CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that pursuant to Supreme Court Rule 29.5(b) that on April 9, 2025, copies of Respondent's Brief in Opposition to a Writ of Certiorari, were mailed in an envelope to the Clerk, United States Supreme Court, One First Street, N.E., Washington, D.C. 20543; and to the juvenile court, 701 North Columbia Street, Covington, Louisiana 70433; counsel for A.N., 310 North Cherry Street, Hammond, Louisiana 70401; counsel for K.C.N., 21489 Koop Drive, Suite 1, Mandeville, Louisiana, 70471; counsel for the biological father, 412 North 4<sup>th</sup> Street, Suite 102, Baton Rouge, Louisiana 70802.

Respectfully submitted April 9, 2025,

  
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