No. 25-365

IN THE

Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT
OF THE UNITED STATES, *et al.*,

Petitioners,

v.

BARBARA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF OF *AMICUS CURIAE* PROJECT ROUSSEAU IN SUPPORT OF RESPONDENTS

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INTEREST OF THE AMICUS CURIAE[1]

Project Rousseau is a non-profit organization that helps young people in the communities in the greatest need throughout the United States reach their full potential. Project Rousseau provides comprehensive legal services, social services, and education and enrichment programs. Amicus has a professional interest in ensuring that the most vulnerable youth in the United States are able to avail themselves of their rights.

INTRODUCTION AND SUMMARY OF ARGUMENT

Executive Order 14160 is, on its face, exclusively a means of removing the right to birthright citizenship of children born to certain non-citizens, but it will also have the same impact on children of certain citizens. Though the Executive Order claims to have no impact on the children of citizens, it would leave the most vulnerable Americans unable to prove that they are in fact American. Project Rousseau writes to highlight a number of populations of children of U.S. Citizens who would be effectively — though unintentionally — stripped of their birthright citizenship because they will not have the documentation to prove their parents' citizenship. These children are often already among the most vulnerable in American society, and the Executive Order would only exacerbate their hardships.

The Executive Order runs counter to centuries of legal and cultural precedent for accepting Foundlings, children

1. No party or party's counsel authored or financially supported any of this brief.

abandoned at birth with no documentation, and others as U.S. citizens who deserve our greatest care. It would leave so many other vulnerable Americans — children conceived in rape, victims of severe abuse, and others — unable to prove they are American. It would leave others forced to decide between their Free Exercise rights and their birthright citizenship rights by asking them to either sacrifice birthright citizenship by continuing to not document their children's births according to their religious beliefs, or to ensure birthright citizenship in violation of their religious beliefs. It would invalidate decades of procedures and precedent that enable a citizen to demonstrate his U.S. citizenship by a preponderance of the evidence. It would risk intergenerational deprivation of citizenship, as one individual's inability to prove their parentage would result in his own children being unable to prove their own citizenship by their parentage. This challenge would also be felt by many Americans who do not seek out and cannot afford the luxury of proof of citizenship for international travel. It would be felt most by those who are poorer, less educated, and live in rural communities.

Some U.S. Citizen children do not know the identity of one or both of their parents. This is hardly a rare circumstance: over ten percent of U.S. Citizen children are born to unknown fathers or fathers who are not listed on their birth certificate, some out of fear for the safety of the children and the mother. Federal law has already established in other contexts that it is not in the best interests of a child to seek out proof of paternity for a child conceived in rape, but Executive Order 14160 would force a temporary resident or unlawfully present mother to do so if she wishes to ensure her child's ability to access the birthright citizenship to which he is entitled.

Other children may know the identity of their parents, but be unable to prove their parentage. This may be because they were born at home, and no birth certificate was acquired. It may also be that they are from certain religious communities that do not seek out proof of parentage or citizenship. Executive Order 14160 would bring their Free Exercise Clause rights into direct conflict with their right to birthright citizenship: they would not be able to access both. Worse yet, those who choose to leave these communities will be left without any means to attempt to prove their citizenship.

For these children of Americans who do not have proof of their birthright citizenship, there are well-established policies and judicial precedents that permit them to establish their citizenship by a preponderance of the evidence. These practices and precedents are incompatible with Executive Order 14160, since only proof of place of birth is required. These Americans would often be unable to prove their parentage and the citizenship of their parents by a preponderance of the evidence, as the Executive Order would require.

To leave these children without the ability to prove their birthright citizenship, as would be required under Executive Order 14160, would create a profound risk of unconstitutional deprivation of their rights as U.S. Citizens. Doing so would also run counter to the core American value, rooted in centuries of tradition, of accepting and caring for the most vulnerable children in our society. The only appropriate solution is to find that Executive Order 14160 does not comply with the constitutional and statutory definition of citizenship.

ARGUMENT

I. Children born to a temporary resident or unlawfully present mother and an unknown citizen or legal permanent resident father would be unable to prove their citizenship.

Were Executive Order 14160 to take effect, if a child's mother was a temporary resident of the United States or unlawfully present in the United States at the time of his birth, the analysis would turn to the father: the child is only a citizen if his father is a citizen or legal permanent resident at the time of the child's birth.

There are many U.S. Citizen children who do not know who their biological father is. In every state in the United States, a birth certificate can be entered with just the name of the birth mother and an "Unknown" father. One longitudinal study found that, between 2011 and 2015, 11.7% of all births nationwide were registered with an unknown father. Yash S. Khandwala et al., *The Age of Fathers in the USA Is Rising: An Analysis of 168,867,480 Births from 1972 to 2015*, 32 Hum. Reprod. 2110, 2114 (2017). State-level data across many states suggests that the percentage of births registered with an unknown father has been similar since then.

Children born to an unknown father are already significantly disadvantaged relative to those who have a known father. Data shows that children with unknown fathers are more likely to be born poor and underweight at birth. *See* A. Merklinger-Gruchała et al., *Marital Status, Father Acknowledgement, and Birth Outcomes*, Int'l J. Env't Rsch. & Pub. Health, 2023, at 2, https://www.ncbi.

nlm.nih.gov/pmc/articles/PMC10048939. Furthermore, children with unknown fathers are more likely to be born to younger, less educated mothers: whereas 11.7% of all births nationwide from 2011 to 2015 were registered with an unknown father, 31.6% of births to a mother under the age of twenty were registered with an unknown father over the same timeframe. *See* Khandwala et al., *The Age of Fathers*, *supra*, at 2114. Additionally, 22.6% of births to a mother without a high school education were registered with an unknown father. *Id.*

Some children's births are registered to an unknown father because the child was conceived in rape, and/or the parents were otherwise in an abusive relationship. When parents are unmarried, all states require a Voluntary Acknowledgement of Paternity (or Parentage) form, which would require a mother in such a situation to contact the father. *See, e.g.*, Tenn. Code Ann. § 24-7-113. Federal law has already recognized that it is not in the best interest of a child conceived in rape for the father to be contacted to establish paternity. *See, e.g.*, 45 CFR § 302.70(a)(5)(ii).

A.[2] was born to a mother with temporary residency who had been raped by A.'s American Citizen father. A.'s birth certificate stated that she had an unknown father, and A. had not been told the identity of her father. A.'s mother had been so severely traumatized by the numerous experiences of rape — and so scared of rumors she heard about consequences of reporting a rape as a non-citizen — that she understandably had felt unable to take action against the father, or unable to pursue VAWA or a

2. A. is an anonymized, true example of a Project Rousseau client.

U-Visa. Fortunately, under the *jus soli* understanding of birthright citizenship, A.'s mother's horrific traumas did not impact A.'s ability to access her right to citizenship; were Executive Order 14160 to take effect, however, A.'s mother would have either cost A. the ability to prove her citizenship or would have had to endure unthinkable suffering, including risking hers and A.'s safety, to try to get a Voluntarily Acknowledgement of Paternity signed by the father.

If the Executive Order were to take effect, a traumatized new mother who is a temporary resident or unlawfully present in the U.S. would be forced to make the impossible choice between confronting her rapist or abuser to get her child access to the birthright citizenship to which she is entitled, or leave her child without the ability to prove his citizenship.

Additionally, a child born to a temporarily or unlawfully present mother who is separated from her husband would have his mother's husband listed as the presumed father on the birth certificate in all fifty states, even where the child's biological father is a U.S. Citizen or lawful permanent resident. This circumstance occurs with frequency because couples separate without getting legally divorced for many reasons, ranging from legal hurdles to family, religious, and cultural pressures. For example, J.[3] is a mother who is fully separated from her legal husband by mutual choice. However, he refuses to divorce her, as divorce is banned by their religious and cultural traditions. J.'s parents do not approve of

3. J. is an anonymized, true example of a Project Rousseau client.

her seeking a divorce on her own. J., like her separated husband, is now in a relationship with a new partner, who is a U.S. Citizen. Unable to divorce her husband, however, J.'s child by her new partner has J.'s husband listed on the birth certificate as per convention. *See, e.g.*, Fla. Stat. § 382.013(2)(a) (2025). Were the Executive Order to take effect, this child would be unable to prove his citizenship derived from his biological father solely because J. cannot get a divorce. Situations like J.'s occur frequently in Project Rousseau's client base, and throughout our clients' communities.

Were Executive Order 14160 to take effect, children born to a temporary resident or unlawfully present mother and an unknown citizen or permanent resident father would have a far greater problem that would exacerbate all of the disadvantages they already face: they would be unable to access the citizenship to which they are rightfully entitled.

II. U.S. Citizen children born to American parents in certain religious groups would be unable to simultaneously access their rights under the Free Exercise Clause and the Citizenship Clause if Executive Order 14160 became law.

Certain longstanding recognized American religious groups choose not to engage with State authorities in obtaining birth certificates for their children, and have so chosen for generations. Many members of these communities would be unable to prove their parentage. Under current law, members of recognized religious groups can be recognized as U.S. Citizens with appropriate documentation from a member of their religious group

certifying that they were born in the United States and are a member of the recognized religious group. However, if the Executive Order were to take effect, U.S. Citizen members of these longstanding, recognized religious groups would be left unable to prove their citizenship.

The Amish are a recognized religious group under 26 U.S.C. § 1402(g). Some Amish traditionally do not seek birth certificates for their children, and live without ever seeking out proof of citizenship. Under current law, Amish individuals born in the United States to two American parents are able to prove their U.S. citizenship with an approved IRS Form 4029, which only requires a written certification of their membership in the religious group. It does not require any information about parentage. This process would be made much more difficult, if not impossible, if parentage and the residency and citizenship of their parents needed to be established as part of the process.

Many other religious communities have similar practices to the Amish. The Mennonites also prefer home births and often do not pursue birth certificates for their children. In one survey, 94.6% of Old Order Mennonite women polled in upstate New York prefer home births. *See* A. E. Ward et al., *Perinatal Health Care Preferences in a Rural Mennonite Community: A Mixed-Methods Study*, J. Midwifery & Women's Health, 2025, at 602, https://onlinelibrary.wiley.com/doi/epdf/10.1111/jmwh.13746.

"The right to control the religious upbringing of one's own children is a well-recognized component of the free exercise right protected by the First Amendment." Bruker v. City of New York, 337 F. Supp. 2d 539 (S.D.N.Y.

2004) (citing Pierce v. Soc'y of Sisters, 268 U.S. 510 (1925); Wisconsin v. Yoder, 406 U.S. 205 (1972)). No parent can be forced to change the religious upbringing of their children, but the Executive Order would require just that. Were the Executive Order to take effect, those Amish and Mennonite community members who do not seek proof of citizenship and/or record births would be left in a conflict of their rights under the Free Exercise Clause and their rights to birthright citizenship.

III. American children without proof of their births would no longer be able to satisfy the preponderance standard for proving birthright citizenship before an agency or a federal court if the Executive Order were to take effect.

Some children do not have proof of their U.S. citizenship. Often, this is because the children were born at home. This would not have surprised the drafters of the 14th Amendment: obtaining a birth certificate was not as common then as it is now. *See* Susan J. Pearson, *"Age Ought to Be a Fact": The Campaign Against Child Labor and the Rise of the Birth Certificate,* 101 J. Am. Hist. 1144 (2015). In the late eighteenth century, and even through the early nineteenth century, a majority of births in America were unregistered. *See id.* at 1145. Accordingly, procedures have been created for a U.S. Citizen of at least five years of age to prove his citizenship by other means.

Every State has created a process whereby an individual without proof of his birth and parentage can retroactively establish birthright citizenship by the preponderance of the evidence. Project Rousseau has represented and supported youth in this situation on

multiple occasions. States permit these children to provide evidence to suggest that their births took place in their State. For example, newborn vaccination records are typically considered to be highly suggestive of having been born in the State in which the vaccinating hospital is located, since it is almost certain that a newborn and his mother would not have been able to travel internationally in such a short period of time after his birth. Similarly, any medical records from early childhood illnesses can be highly suggestive. School records of early childhood education can also be suggestive as part of a larger compilation of records.

E.[4] is a young person born in the United States to one U.S. Citizen parent. However, she was born at home, and her birth was never documented. E. is not alone in being born at home — approximately 1.2% to 1.5% of children born in the United States are born at home, and home births are on the rise, especially in rural America. *See* Marit L. Bovbjerg et al., *Planned Home Births in the United States Have Outcomes Comparable to Planned Birth Center Births for Low-Risk Birthing Individuals,* 62 Med. Care 820, 820–29 (2024).

E. went through childhood without any ability to prove her U.S. Citizenship. Under current law, she only needs to prove by the preponderance of the evidence that she was born in the United States. Accessing her right to birthright citizenship therefore becomes a straightforward — yet certainly still challenging — task of compiling any available documentary evidence of her earliest moments.

4. E. is an anonymized, true example of a Project Rousseau client.

This includes her earliest medical records, records of her attending early childhood programming, and the first census record in which she is recorded. E. was also able to submit affidavits from those who recall interacting with her in the United States during her infancy.

All fifty States of the United States have such a procedure in place. They continue the tradition of the Foundling in the United States: that every child who does not have documentation of his birth and/or cannot identify one or both of his parents be given the opportunity, as an individual, to prove his citizenship. The courts also have the ability to make declaratory statements of citizenship based on a preponderance of the evidence standard, as first laid out in *Liacakos v. Kennedy*. *See* 195 F. Supp. 630 (D.D.C. 1961). Courts have repeatedly applied this standard throughout the United States. *See, e.g.*, *Serrato v. Blinken*, No. 4:19-cv-00733, slip op. (S.D. Tex. June 27, 2022) (finding that plaintiff met his burden of proof by a preponderance of the evidence to show that he was born in the U.S. based on witness statements that he had a reputation for being born in Eagle Pass, Texas); *Torres v. Pompeo*, No. 4:14-cv-00552-JED (N.D. Okla. Feb. 12, 2019) (finding that plaintiff had "met his burden of proving his birth in the United States by a preponderance of the evidence," *id.*); *Acosta v. United States*, No. C14-420 RSM (W.D. Wash. Apr. 29, 2015) (granting declaration of citizenship by a preponderance of the evidence).

However, under the proposed Executive Order, an American without documented proof of parentage would not be able to prove his citizenship by a preponderance of the evidence, since this currently constitutes finding evidence of one's earliest life milestones to suggest one

has spent one's whole life from birth in America. The process does not include any information about parentage or the citizenship of the parents. Since Americans in this situation often do not have access to any of their parents' documentation, either, they would never be able to prove their parents' citizenship; therefore, Executive Order 14160 would render it impossible to prove citizenship based on the preponderance of the evidence standard. Furthermore, an American would be unable to seek a declaratory judgment of his citizenship under Executive Order 14160 in court since he does not have standing to seek a declaratory judgment of his parents' citizenships.

A child's inability to prove his citizenship would have intergenerational consequences; a parent who has been unable to prove her own citizenship will pass along that challenge to her children, and so forth. This generational inability to prove citizenship will especially affect rural, low-income, and certain communities where it is especially common for births not to be documented.

IV. Vulnerable children who have fled dangerous situations would be unable to prove their citizenship during the most vulnerable time in their lives.

The restriction to or withholding of a child's identity documents by a parent or guardian has been described in legislative settings as "identification abuse." *See, e.g.*, Senate Rsch. Ctr., Bill Analysis, Tex. H.B. 2794, 84th Leg., R.S. (2015), https://lrl.texas.gov/scanned/srcBillAnalyses/84-0/HB2794ENG.PDF. Identification abuse often leaves children particularly vulnerable to other forms of harm: one in ten homeschooled youth who were abused also reported being subjected to identification

abuse. *See Statement Supporting Texas House Bill 2794, Coalition for Responsible Home Education* (Mar. 19, 2015), https://crhe.org/statement-supporting-texas-house-bill-2794-2/. Confiscation or control of identity documents is also a well-recognized indicator of human trafficking. *See* U.S. Dep't of State, *Trafficking in Persons Report* (2025), https://www.state.gov/reports/2025-trafficking-in-persons-report; Polaris Project, *Labor Trafficking Red Flags*, https://polarisproject.org/labor-trafficking (last visited Feb. 20, 2026). When children lack formal identity documents, they effectively become "invisible" to public systems — such as educational, healthcare, and child welfare systems — designed to safeguard their wellbeing.

Other children choose to leave their religious communities. These individuals are often particularly vulnerable. *See* Raphael Cohen-Almagor, *Can Group Rights Justify the Denial of Education to Children? The Amish in the United States as a Case Study*, 1 SN Soc. Sci. 164 (2021) (citing multiple examples of young women who fled the Amish community). Having left their entire life behind, they are penniless and friendless, and have very low levels of education. *See* Jessica R. Sullivan, A Recipe for Success in the 'English World': An Investigation of the Ex-Amish in Mainstream Society 31, 122 (Ph.D. dissertation, W. Mich. Univ. 2018) (on file with ScholarWorks at W. Mich. Univ.), https://scholarworks.wmich.edu/dissertations/3358 (citing conditions under which teens fled the Amish community). Even if they had prior approved IRS 4029s, the forms are no longer valid upon their departure from their religious communities. *See* Internal Revenue Serv., *Form 4029, Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits* 2 (2018), https://www.irs.gov/pub/irs-pdf/f4029.pdf.

Were the Executive Order to take effect, children who successfully flee dangerous or abusive circumstances could find themselves unable to prove they are Citizens of the United States. This Court has long protected the fundamental right of parental choice, including autonomy over homeschooling and childhood vaccinations. Yet, under this Executive Order, the lawful exercise of those parental rights could leave the young person with little or no formal documentation of his existence and parentage. In such cases, the only proof of parentage might be an affidavit from the very family or community from which they have sought refuge.

V. Many U.S. Citizens do not currently seek out proof of citizenship, and the proposed Executive Order will force them to undertake costly application processes to prove their child's right to citizenship.

Requiring proof of one's citizenship to establish one's child's birthright citizenship would require Americans to do something that a majority of them do not currently do. If Executive Order 14160 were to take effect, a U.S. Citizen's child could have his citizenship called into question if the parent does not have proof of her own citizenship.

But many Americans do not readily possess proof of citizenship. In 2024, only 48% of Americans had a passport. *See* Antony J. Blinken, Sec'y of State, *Expanding Passport Agencies Across the United States*, U.S. Dep't of State (June 18, 2024), https://2021-2025.state.gov/expanding-passport-agencies-across-the-united-states. While passport possession has grown steadily over the past three decades, that is out of choice: "[m]ore Americans can travel abroad today than at any time in our history."

Id. Since passport possession logically correlates with international travel, it follows that paying for a passport is a decision made by those who can afford international travel. While 71% of Americans with a postgraduate degree hold a passport, only 24% of those with a high school degree or less have a passport. *See* YouGov, *YouGov Survey: Passports*, https://ygo-assets-websites-editorial-emea.yougov.net/documents/Passports_poll_results.pdf (last visited Feb. 14, 2026).

Furthermore, this requirement would create a significant financial hardship for low-income Americans. A passport application fee is $130 for a passport book and $30 for a passport card. For first-time passport purchasers, there is a supplemental "execution fee" of $35. Passport applicants must also submit a printed, color photo, and must take time during a Post Office's open hours to submit it. The federal minimum wage is $7.25 per hour; for an American earning the minimum wage, this cost would amount to post-tax earnings of multiple days' work just to prove citizenship for their child's benefit. The Executive Order would force Americans, even those who cannot afford a passport, to purchase one in order to access their child's right to birthright citizenship.

VI. Safe Haven Laws carry on and expand the tradition of the Foundling without regard for parentage, which is incompatible with the spirit of Executive Order 14160.

States have long provided the right of mothers to give birth anonymously, and of a parent's right to anonymously surrender a child into the custody of a designated uniformed officer of the State, or at a designated safe

location. Indeed, this Court has previously recognized the importance of this right. *See* Transcript of Oral Argument at 111–12, *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022) (No. 19-1392) (Justice Barrett citing that "in all 50 states, you can terminate parental rights by relinquishing a child after [birth]").

Over the past few years, this right has been expanding significantly across the United States. All fifty States have a Safe Haven Law. Many states have been expanding this right across numerous dimensions: when and for how long after birth a child can be handed over, to whom a child may be given, and the degree of anonymity offered to the parent involved.

For example, Mississippi has created and greatly expanded the right to anonymously give birth to and surrender a child. In 2020, Mississippi enacted a statute permitting a mother to give birth anonymously in Mississippi and surrender the child at any point in the first seven days (now expanded to forty-five days) of the child's life. *See* Miss. Code Ann. § 43-15-201(3) (2020). The statute required that "the identity of the birth mother shall not be placed on the birth certificate or disclosed to the Department of Human Services." *Id.* § (3)(b). A parent surrendering a child "shall not be required to provide any information pertaining to his or her identity, nor shall the emergency medical services provider inquire as to the same." *See id.* § (2). Given the statutory prohibition on gaining knowledge of his parentage, a child born to anonymous parents in Mississippi in 2020 or later would be unable to prove U.S. citizenship under the Executive Order.

In 2024, the statute was amended to expand these rights greatly, including by removing the requirement that the parent personally deliver the child. *See* Miss. Code Ann. § 43-15-201(1) (2024). There are now three additional options. First, the child can instead be delivered in a "baby safety device." Second, a parent can call emergency services to surrender the child; the statute explicitly states that no documentation is required for emergency services personnel to take custody of the child. Finally, a "person designated by the parent" can deliver the child. *See id.* Any person designated by the parent is also afforded complete anonymity, and those accepting the child are prohibited from seeking out identification. *See id.* § (4).

Mississippi is hardly alone in this regard; many states have increased the scope of their Safe Haven Laws. Indeed, at least nine other states now statutorily permit birth certificates to be produced without listing any parents for children surrendered under Safe Haven laws: Arkansas, Florida, Kentucky, Minnesota, Nebraska, South Carolina, Utah, Washington, and West Virginia. Additionally, in Alabama, Connecticut, and Idaho, a surrendered child is not issued a birth certificate at all; instead, they are issued an equivalent record of vital statistics documents that do not contain any information on parentage. In all thirteen of these states, a child surrendered under a Safe Haven law would have no documentation of his parentage and no means to ascertain it.

These states continue the long and until-now unbroken tradition of understanding universal birthright citizenship regardless of parentage. Safe Haven Laws uphold

Congress's precedent and centuries-long tradition[5] of affording citizenship to Foundlings, surrendered children of unknown parentage born in the United States, unless they are shown to have been born outside of the United States before they turn twenty-one. Congress's so-called Foundling Statute states that "[t]he following shall be nationals and citizens of the United States at birth; persons of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, *not to have been born in the United States*." 8 U.S.C. 1401(f) (emphasis added).

Safe Haven Laws are explicitly carrying on this tradition of treating Foundlings as U.S. Citizens without regard to their parentage: at least seven States' statutes require that a surrendered child's birth certificate be labeled "Foundling," and the Texas Department of Health and Human Services' "Birth Worksheet for Child's Birth Certificate" has a "Record Type" category entitled

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5. Caring for a Foundling as an American child of equal merit to one cared for by his parents is a cornerstone of the American tradition. The mid-19th century, among rising infectious diseases and poverty, saw a dramatic increase in the number of impoverished parents who, unable to care for their newborns themselves, abandoned their infants at the doorstep of a church or neighbor. This gave rise to several institutions to provide care to Foundling children, such as The New York Foundling, a faith-based organization founded in 1869, and New York Juvenile Asylum ("NYJA," now known as the Children's Village), which began pioneering the Orphan Train to place children with families and homes in the Midwest. These efforts ran on public funding, and States collaborated and co-funded these initiatives over time. *See* Rebecca S. Trammell, *Orphan Train Myths and Legal Reality*, Mod. Am., Spring 2009, at 3, 4; *see also* New York Juvenile Asylum Records, Box 19, Folder 2 at 419.

"Foundling/Safe Haven." *Birth Worksheet for Child's Birth Certificate*, Tex. Dep't of State Health Servs. (July 2021), https://www.dshs.texas.gov/sites/default/files/vs/partners/docs/forms/Parent-Worksheet-BirthCertificate-VS109.pdf.

These States recognize these children's citizenship in keeping with the precedent and tradition of recognizing birthright citizenship without regard to parentage. Accordingly, these Safe Haven Laws, like the Foundling Statute before them, were built on the understanding of universal birthright citizenship. *See* Members of Congress as Amici Curiae, Brief in Support of Respondents, *Trump v. Barbara*, No. 25-365 (Feb. 19, 2026) (amicus brief) (on file with the Supreme Court of the United States). But under the Executive Order, a child anonymously surrendered at birth under the Safe Haven Laws would never be able to prove what the government proposes as essential to citizenship under the 14th Amendment: the citizenship status of his parents. The Executive Order thus would not recognize these children as Citizens — contrary to the longstanding tradition of recognizing the citizenship of children of anonymous parentage, and even where these children's biological parents actually are United States Citizens or lawful permanent residents. Thus, not only will the Executive Order strip citizenship from children born to certain non-citizens, but it will also have the same impact on children of certain Citizens.

CONCLUSION

It is undisputed that every U.S. Citizen must be able to enjoy the rights and privileges afforded with U.S. citizenship. Executive Order 14160 would render many U.S. Citizens unable to prove their citizenship. The U.S.

Citizens who would most frequently be left unable to prove their citizenship would be among the most vulnerable Americans: children of unknown parentage, those conceived in rape, and those escaping abuse, among others. They would disproportionately be low-income Americans and Americans in rural communities. The Executive Order would also risk intergenerational deprivation of citizenship, as one individual's inability to prove her parentage would result in her own children being unable to prove their own citizenship by their parentage. And Americans from certain religious communities would also be put in an unsolvable constitutional bind: they would have to sacrifice either their rights under the Free Exercise Clause or their rights of birthright citizenship.

It cannot be that the 14th Amendment bars Americans — especially those most vulnerable — from accessing their right to citizenship. Therefore, the Court must find that Executive Order 14160 does not comply on its face with the Citizenship Clause of the 14th Amendment or with 8 U.S.C. § 1401(a).

Respectfully submitted,

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