No. 25-6140

IN THE
SUPREME COURT OF THE UNITED STATES

D.B. & N.D.,
Petitioners
v.

STATE OF VERMONT,
Respondent

On Petition for Writ of Certiorari
To the Vermont Supreme Court

PETITIONERS' REPLY TO RESPONDENT'S OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

I. The State's "decade of involvement" narrative is false, and it cannot excuse the lack of due process.

The State's recitation of the facts contains significant inaccuracies and asserts allegations that the court did not find to be true, most notably concerning Petitioners' alleged substance abuse and history with DCF. The State attempts to use its misleading framing of Petitioners' history to justify the fact that it terminated their parental rights based on their alleged failure to comply with an agency-generated case plan that the court never approved – a substantial violation of Petitioners' due process right to notice and their right to maintain their parental rights absent clear and convincing evidence of unfitness.

This case has nothing to do with substance abuse. Pet. App. 1a-8a. The court's findings against the parents involved the older two children's excessive absences from school and concerns about cleanliness, hygiene, and two of the children being overweight. The State also attempts to obscure the fact that the court found that DCF did *not* make reasonable efforts to reunify this family – only that it made reasonable efforts to initiate termination proceedings and locate adoptive placements for the children. The State never challenged this finding and has waived its right to challenge it now.

The State's answer to Petitioners' due process notice argument is that "[t]he Department had been working with Petitioners for nearly a decade before moving for TPR, such that Petitioners should have been on clear notice of the Department's concerns by the time of the termination hearing." Opp. 17. The premise of that argument is false. The 2021 case was *dismissed* because the State failed to prove that the children were neglected. Pet. App. 1a. Likewise, the State misrepresents the court proceedings initiated in 2014 and 2015, claiming erroneously that "[t]he Department had been working with Petitioners for nearly a decade before moving for TPR, such

that Petitioners should have been on clear notice of the Department's concerns by the time of the termination hearing." Opp. 17. Only the proceedings initiated in 2015 resulted in the children's removal, and that removal was brief. Throughout the majority of the 2015 cases involving D.B. and J.B., the children lived with their parents, though temporary custody was assigned to a relative or to DCF. These cases are not referenced in the Vermont Supreme Court's decision precisely because they are not relevant to the family's present circumstances.

The Department did not work with Petitioners continuously for a decade. When the Department filed the underlying CHINS petitions in May 2022, the prior cases had been closed or dismissed for between five months and nine years. The State's decade arithmetic counts every year between 2014 and 2024 as if the Department's involvement had been continuous, when the record establishes the opposite: gaps of years during which Petitioners had every reason to believe the Department's prior concerns had been resolved.

In any event, knowing that DCF "has concerns" is not the kind of notice due process requires before the State permanently severs the parent-child relationship. Due process demands notice of what specific conduct, by what specific date, will result in the deprivation of a fundamental right. *See Sessions v. Dimaya*, 584 U.S. 148, 156 (2018). That notice is ordinarily supplied by a court-approved disposition case plan: a document, prepared by the Department after an adversarial hearing, that identifies the specific changes the parents must make and the specific timeframe in which they must make them. 33 V.S.A. § 5316(b)(5). When the State pursues termination at initial disposition, however, it bypasses that mechanism entirely. There is no court-approved case plan, no judicially determined list of action steps, and no judicially imposed deadline. The parents are left to guess what unwritten standard the court will apply when it decides whether to extinguish their fundamental right to family integrity.

That gap is not theoretical here. DCF demanded that Father complete a domestic violence assessment, and fifty-two domestic violence classes, despite no court finding of domestic violence. It demanded mental health treatment for both parents despite no court finding that such treatment was necessary. It imposed undefined restrictions on what the parents could say to their own children during visits – banning "future talk" and "adult talk" – and then cited isolated examples of "violations" of those restrictions as grounds for termination. It attempted to ban muffins and potato chips from visits entirely, regardless of the occasion or the nutritious alternatives the parents offered alongside this "junk food." The DCF case worker admitted at the termination hearing that several of these requirements bore no relationship to the court's merits findings. None of these requirements appeared in any document the trial court approved. None of them carried a deadline the trial court ratified. And several of them now appear in the Vermont Supreme Court's decision as grounds for affirming the termination of Petitioners' parental rights. Pet. App. 6a-7a. The State calls this constitutionally adequate notice. It is the opposite. The Court should grant review and hold that when a State proposes to terminate a fundamental right based on a parent's alleged failure to comply with conditions, those conditions must come from a neutral tribunal – not from an executive-branch case worker operating without judicial oversight.

II. Petitioners have standing to challenge the State's interpretation of the federal reasonable efforts requirement.

Mother and Father have standing to challenge the State's interpretation of federal law, including the reasonable efforts requirement set forth in 42 U.S.C. § 671(a)(15), because this appeal is not a "private right of action." In 1994, Congress substantially overruled *Suter v. Artist M*:

> In an action brought to enforce a provision of this chapter, such provision is not to be deemed unenforceable because of its inclusion in a section of this chapter requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit

> or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S.Ct. 1360 (1992) but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 671(a)(15) of this title is not enforceable in a private right of action.

42 U.S.C. § 1320a-2. Thus, the right to individual relief under 42 U.S.C. § 671(a)(15) remains intact, except to the extent that an individual seeks to enforce his or her rights via a "private right of action."

Seeking a Writ of Certiorari from the United States Supreme Court is not a private right of action. *Right of Action*, Black's Law Dictionary (12th ed. 2024) (defining the term as "[a]n individual's right to sue in a personal capacity to enforce a legal claim"). Mother and Father have not sought to sue in their personal capacity to enforce the reasonable efforts requirement. Rather, they seek appellate review of Vermont's minority view that in a case where reasonable efforts are required, parental rights may be judicially terminated despite the child welfare agency's failure to attempt reunification. Thus, the State's reliance on *Medina v. Planned Parenthood S. Atl.*, a suit brought under 42 U.S.C. § 1983, is inapposite. 606 U.S. 357 (2025). Section 671(a)(15) is far more like the Federal Nursing Home Reform Act provisions this Court found enforceable in *Health & Hospital Corp. of Marion County v. Talevski*, 599 U.S. 166, 181–82 (2023), than like the qualified-provider condition in *Medina*: it sets a substantive standard governing how a State must treat identifiable individuals (parents and children) at an identifiable point in time (before permanent severance of the parent-child relationship).

Petitioners further observe that a substantial majority of state high courts have concluded that § 671(a)(15) *does* create an enforceable right – the right to maintain family integrity until the government proves to the juvenile court that it made reasonable efforts to reunify the family and that those efforts failed. *See, e.g. Matter of Burns*, 519 A.2d 638, 647–48 (Del. 1986); *Int. of JN*,

2023 WY 83, ¶ 13, 534 P.3d 455, 458 (Wyo. 2023) ("To give the family the best chance at family reunification, [reasonable] efforts must be made, and the juvenile court must determine the efforts were reasonable."). Vermont, by contrast, has held that its juvenile courts do not even have jurisdiction to enforce the federal reasonable efforts mandate in a termination proceeding. *In re K.H.*, 154 Vt. 540, 542, 580 A.2d 48, 49 (1990).

To the extent that this Court concludes that its decision in *Suter* deprives the parents of standing to raise the government's failure to make reasonable efforts as a defense to the termination of their parental rights, then *Suter* should be overruled because § 671(a)(15) creates a substantive standard that a substantial majority of state high courts treat as conferring an enforceable safeguard against unfair deprivation of a fundamental right.

III. Vermont, unlike most other states, wrongly asserts that the federal reasonable efforts mandate is not "authority" that state courts have an obligation to follow and enforce, and it wrongly asserts that the states are not split on how to apply 42 U.S.C. § 671(a).

A. States do not have discretion to terminate parental rights without making reasonable efforts, absent aggravating circumstances.

The State's "discretion" framing cannot be reconciled with the statutory text. Section 671(a)(15)(B) provides that "reasonable efforts *shall* be made to preserve and reunify families," 42 U.S.C. § 671(a)(15)(B) (emphasis added), and this Court has repeatedly held that "shall" in a federal statute "normally creates an obligation impervious to judicial discretion." *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998); *see also Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 172 (2016) ("When a statute distinguishes between 'may' and 'shall,' it is generally clear that 'shall' imposes a mandatory duty."). The surrounding statutory scheme confirms that the duty is real. Section 675(5)(E) excuses a state from filing a termination petition within the otherwise-mandatory timeline whenever the State "has not provided to the family of the child . . . such services as the State deems necessary for the safe return of the child."

42 U.S.C. § 675(5)(E)(iii). That carve-out would be surplusage if States were free to terminate parental rights without first attempting reunification. The canon against surplusage forecloses that reading. *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013). Section 671 imposes a duty on Vermont to attempt reunification before seeking termination, absent aggravating circumstances, which are not present here.

B. The states are split with respect to whether a state's failure to make reasonable efforts toward reunification precludes termination of parental rights.

A "split of authority" exists when the same statute, applied to the same facts, produces a different result depending on each jurisdiction's unique statutory interpretation. The states' "differing approaches" to applying and enforcing § 671(a)(15) have produced "divergent outcomes in factually similar cases." *See Carter v. United States*, 145 S. Ct. 519, 525 (2025) (Thomas, J., dissenting from the denial of certiorari and listing various examples of "splits of authority" amongst the federal circuit courts). Most states would prohibit the termination of Mother and Father's parental rights based on DCF's failure to make reasonable efforts. *See* Pet. 13-16. Thus, the states are split on the issue of whether their juvenile courts have authority to enforce the federal reasonable efforts mandate by blocking the state from terminating parental rights when the state fails to follow the federal law.

As discussed in the Petition for a Writ of Certiorari, forty-two jurisdictions have interpreted 42 U.S.C. § 671 to preclude termination of parental rights based on a parent's failure to remedy the conditions that led to state intervention unless the state has made reasonable efforts to reunify the family. Even states that permit termination when the state agency has failed to make reasonable efforts often require the court to consider the lack of reasonable efforts as part of the termination analysis. *See, e.g. In re Matter of C.M.*, 2019 MT 227, ¶ 22, 397 Mont. 275, 449 P.3d 806 (stating that "a conclusion that a parent is unlikely to change could be called into question if the Department

failed to make reasonable efforts to assist the parent."); *In re Kaliyah S.*, 455 S.W.3d 533, 555 (Tenn. 2015) (holding that "the extent of DCS's efforts to reunify the family is weighed in the court's best-interest analysis, but proof of reasonable efforts is not a precondition to termination of the parental rights of the respondent parent.").

Vermont, by contrast, explicitly permits termination of parental rights at initial disposition – before any court-approved plan of reunification services is ever implemented. 33 V.S.A. § 5317; 33 V.S.A. § 5318; 33 V.S.A. § 5114. That is precisely what happened in this case – instead of approving a plan of reunification services and monitoring its implementation, the court terminated parental rights based solely on its analysis of the children's "best interests." Pet. App. 6a. This is not an exercise of "discretion" in implementing the reasonable efforts mandate, it is a bold determination that federal law is merely advisory.

The State asserts that when it comes to terminating parents' rights, it does not matter what the state proves, only that it is proven by "clear and convincing evidence." Opp. 14-15. In Vermont, the government need only prove that termination is in the child's "best interests," with an emphasis on whether the parents can resume parental duties within a reasonable time. When the standard governing termination proceedings is whether the parents can timely resume parental duties, the burden of proof shifts to the parents to prove fitness if the state has no obligation to attempt reunification or reunification services. This burden-shift is patently unconstitutional under this Court's holding in *Santosky v. Kramer*, 455 U.S. 745, 769-770 (1982).

IV. Vermont's termination of Petitioners' parental rights cannot survive strict scrutiny.

The State's response to the constitutional dimension of this case never engages the most important question: what standard of review applies when the government permanently severs the parent-child relationship. As this Court observed more than twenty-five years ago, "[t]he liberty

interest at issue in this case – the interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Because it is a fundamental right, the State may infringe it only if its action is narrowly tailored to serve a compelling interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993); *Troxel*, 530 U.S. at 80 (Thomas, J., concurring in the judgment) (observing that "strict scrutiny" applies "to infringements of fundamental rights," including the fundamental right of parents "to direct the upbringing of their children"); *see also Washington v. Glucksberg*, 521 U.S. 702, 721 (1997) (a right qualifies as "fundamental" when it is "objectively, deeply rooted in this Nation's history and tradition"). Vermont's categorical refusal to require reasonable efforts toward reunification in termination cases fails that test, and the record in this case shows why.

A. Strict scrutiny is the governing standard, and Vermont does not defend its position under that standard.

The State treats *Santosky v. Kramer*, 455 U.S. 745 (1982), as if it had imposed a single constitutional requirement in termination proceedings – proof by clear and convincing evidence – and left everything else to the states. Opp. 14-15. The State's position is constitutionally untenable because it would permit the government to terminate parental rights for any reason, provided the government met its burden of proof by clear and convincing evidence. *Santosky* heightened the government's burden of proof because the parental interest at stake was "commanding" and because the State's "unusual ability to structure the evidence" created an unacceptable risk of erroneous deprivation. 455 U.S. at 758, 763, n.13. The Court did not hold that clear-and-convincing evidence is the only protection the Constitution supplies. It held that the constitutional floor is proof of *parental unfitness* by clear and convincing evidence.

The controlling framework is the one this Court has applied to fundamental rights for decades: government action that infringes a fundamental right must be "narrowly tailored" to serve

a "compelling state interest." *Reno v. Flores*, 507 U.S. at 302; *Troxel*, 530 U.S. at 65. Termination of parental rights is the most severe type of infringement the State can impose because it extinguishes the fundamental right permanently. The State's opposition never mentions strict scrutiny, never identifies a compelling interest that Vermont's categorical rule serves, and never explains how a categorical refusal to require reunification services could be "narrowly tailored" to any legitimate end. That silence is dispositive.

The State's response is that Vermont "considers" reunification efforts at earlier stages of the case and "again later in connection with the best-interests analysis at the TPR proceeding." Opp. 16. That position cannot be reconciled with the State's concurrent defense of *In re C.P.* as a permissible policy choice. Opp. 11-13; 2012 VT 100, 193 Vt. 29, 71 A.3d 1142. If Vermont courts actually considered reasonable efforts in the termination analysis, *In re C.P.* would not need to exist. The State cannot have it both ways. The Vermont Supreme Court's decision in this case reveals the path Vermont has chosen – whether DCF made reasonable efforts toward reunification is so irrelevant to the question of whether termination is in the child's best interests that the Court dispensed with Father's reasonable efforts argument in a single paragraph. Pet. App. 6a.

The State's remaining authorities do not rescue its position. Its own lead citation, *Jessie D. v. Department of Child Safety*, 495 P.3d 914 (Ariz. 2021), holds that requiring a child welfare agency to provide reunification services is "a constitutional requirement." *Id.* at 921. *Waters v. Division of Family Services*, 903 A.2d 720, 726-27 (Del. 2006), holds that the failure to provide a meaningful case plan or reunification services violates "basic due process standards." The Connecticut and District of Columbia decisions the State cites hold only that no stand-alone reasonable efforts "finding" is constitutionally required. Petitioners do not contend otherwise.

Their objection is to Vermont's *categorical exclusion* of reunification efforts from termination analysis already lacking in substantive standards – a posture no other state has embraced.

B. The State's "poor vehicle" argument fails on its own terms.

The State's primary response to the constitutional question is to argue that this case is a "poor vehicle" because Petitioners purportedly "could not show that they were denied reasonable reunification services." Opp. 17. That argument fails on the record the State itself developed below. The trial court found that DCF did *not* make reasonable efforts to reunify the family, only that DCF made reasonable efforts to "arrange and finalize an alternative permanent living arrangement" by terminating Petitioners' parental rights and seeking adoptive homes for the children. The State did not challenge that finding in the trial court or on appeal, and it cannot collaterally relitigate it now to bolster its "poor vehicle" argument.

The undisputed record confirms DCF's failure to make reasonable efforts. The merits adjudication rested on three concerns: truancy, household cleanliness, and the older children's weight. DCF provided no services to address any of those concerns. When asked at the termination hearing what services DCF offered to address the cleanliness and hygiene concerns, the DCF caseworker testified flatly that "DCF doesn't provide those services." The only "reunification service" DCF provided – Family Time Coaching – did not begin until nine months after removal and focused on critiquing parental conduct during supervised visits rather than addressing the merits findings. The State's Attorney conceded in June 2023 that "the Court ordered parent-child contact, and DCF isn't doing it." And while DCF was withholding services, it limited parent-child contact to as little as one hour per week and then relied on the children's resulting "adjustment" to foster placement as a principal basis for termination—the very dynamic *Santosky* warned about when it observed that the State has "unusual ability to structure the evidence" in termination cases. 455 U.S. at 763, n.13. This case is not a "poor vehicle." It is the paradigmatic vehicle: a case in

which the State took children into custody, refused to provide services targeted at the merits findings, engineered the conditions on which termination ultimately rested, and then cited the passage of time as evidence of unfitness.

C. Vermont's rule is not narrowly tailored to any compelling interest.

The State invokes "the child's health and safety" as the "paramount" interest its rule serves. Opp. 10, 12. That interest is undeniably compelling in the abstract, but it does not describe the rule actually under review. Vermont's rule does not authorize termination only when a child's health and safety are at risk or when less extreme measures have failed. It authorizes termination whenever a state court concludes that termination serves a child's "best interests," without any requirement that the State first attempt reasonable alternatives. The merits findings in this case illustrate the gap. The Department did not allege physical abuse, sexual abuse, or any conduct placing the children at imminent risk of serious harm. The concerns were truancy, household cleanliness, and the older children's weight. The record contains no evidence that any child suffered actual harm or faced a significant risk of serious harm from conditions in the home. These are concerns that ordinary services – educational advocacy, nutrition counseling, in-home parenting assistance – routinely remediate without separating families. A rule that authorizes permanent severance of a fundamental right on this record cannot be described as narrowly tailored to protecting children from harm.

A narrowly tailored approach would have required the State to attempt reunification services before seeking permanent destruction of the parent-child relationship, and it would have required a court to find that those efforts were made before ordering termination. That is what forty-one other states, and the District of Columbia, require. Pet. 13, n.3. Vermont's categorical rule dispenses with that requirement. Whatever interest the State claims to serve, a rule that permits

permanent severance of a fundamental right without any requirement of reasonable alternatives is, by definition, not the least restrictive means of achieving it.

D. The problem extends beyond this case.

Vermont's rule fails strict scrutiny not only as applied but on its face. *In re C.P.* squarely holds that "whether DCF made reasonable efforts to achieve permanency is a separate question from whether termination is in the child's best interests and the former is not a prerequisite to the latter." 2012 VT 100, ¶ 38, 193 Vt. 29, 47, 71 A.3d 1142. The decision below reaffirmed that rule and rejected Father's reasonable efforts argument on precisely that ground. Pet. App. 6a. In every Vermont termination case – not just this one – the State may permanently extinguish the fundamental right to parent without any requirement that it first attempt less restrictive alternatives. No rule so indifferent to narrow tailoring can survive strict scrutiny.

The empirical record confirms that Vermont's practice of severing fundamental parental rights without any requirement of reasonable alternatives produces outlier results. Vermont's trial courts grant 98.9 percent of termination petitions, and the Vermont Supreme Court has affirmed one hundred percent of termination decisions since May 2020. Pet. 2. The State attempts to brush these numbers aside by speculating that Vermont may simply be "more selective in deciding when to pursue TPR." Opp. 21. Vermont's own data refutes that speculation. In 2024, the year the State filed the termination petitions in this case, forty-six percent of Vermont children exited the foster care system through adoption, the highest rate in the entire country.[1] That same year, just thirty-eight percent of Vermont children were reunified, the seventh lowest rate in the nation.[2] In 2022, the year DCF removed Petitioners' children, only seven states removed children from their families

[1] Annie E. Casey Foundation, *Kids Count Data Center*, (last visited April 10, 2026) https://datacenter.aecf.org/data/tables/6277-children-exiting-foster-care-by-exit-reason?loc=47&loct=2#ranking/2/any/true/1096/2631/13051.
[2] *Id*.

at a higher per capita rate than Vermont.[3] That same year, Vermont had the second-lowest child poverty rate in the nation.[4]

A State with the second-lowest child poverty rate, one of the highest child removal rates, and one of the lowest reunification rates in the entire nation is not exercising careful selectivity. It is aggressively separating families, and in too many cases, it is separating families forever. Published research examining the drivers of Vermont's high removal rates confirms the point: the Vermont DCF districts with the highest removal rates were more likely to endorse the view that removing children to force parental "cooperation" is acceptable practice.[5] Coercion of parental compliance is not a compelling state interest, and a rule that enables such behavior cannot be described as narrowly tailored to any legitimate end.

The State's attempt to normalize Vermont's one-hundred-percent appellate affirmance rate fares no better. The State observes that an informal study found a 95 percent affirmance rate in Indiana termination appeals. Opp. 21. Even that figure—offered by the State as reassurance—means Indiana reverses five percent of termination orders. Vermont reverses zero. A study of California dependency appeals, meanwhile, found an average reversal rate of ten percent and characterized that figure as "extremely low" relative to criminal appeals (34 percent) and ordinary civil appeals (20.6 percent).[6] Vermont's zero-percent reversal rate is not evidence of careful trial-court decision-making. It is evidence of an appellate court that has abandoned meaningful scrutiny of a rule that cannot survive any level of scrutiny. Meaningful strict-scrutiny review would reverse

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[3] Annie E. Casey Foundation, *Kids Count Data Center* (last visited Mar. 18, 2026), https://datacenter.aecf.org/data/tables/11847-rate-of-children-in-foster-care-by-age-group.

[4] Annie E. Casey Foundation, *Kids Count Data Center* (last visited Mar. 18, 2026), https://datacenter.aecf.org/data/tables/43-children-in-poverty.

[5] Jessica Strolin-Goltzman, Hannah Holbrook & Tammy Kolbe, *Drivers of DCF Custody—Final Report* 112 (Sept. 2021) (finding that DCF districts with the highest removal rates were more likely to endorse removal as an acceptable means of forcing parental "cooperation").

[6] William Wesley Patton, *To Err Is Human, to Forgive, Often Unjust: Harmless Error Analysis in Child Abuse Dependency Proceedings*, 13 U.C. Davis J. Juv. L. & Pol'y 99, 112–13 (2009).

some nontrivial portion of the terminations the Vermont Supreme Court has rubber-stamped. The fact that it has reversed none confirms that the governing rule – which permits termination without any requirement that the State attempt reunification within the context of a statutory framework that permits termination based on "best interests" alone – operates to foreclose the very inquiry that strict scrutiny demands.

The State's final gambit is to observe that four of the five states with higher per capita TPR rates than Vermont do require reasonable efforts findings. Opp. 20-21. That observation proves only that a reasonable-efforts requirement, standing alone, is insufficient to prevent outlier results. Petitioners have not argued otherwise. Their point is that Vermont combines features no other state does: no reasonable-efforts requirement, termination permitted at initial disposition without a court-approved case plan, and termination based solely on the court's assessment of the child's "best interests." That combination is what renders Vermont's rule facially incapable of narrow tailoring, and the astonishing rate at which courts grant termination petitions proves the gravity of the problem.

Vermont sits at the leading edge of a troubling national trend, not at a defensible middle ground: between 2010 and 2020, the national rate of termination of parental rights rose from 7.2 to 8.36 per ten thousand children, while the rate of reunification fell from 53 percent to 49 percent of foster-care exits.[7] Vermont's rule accelerates that trend by dispensing with the one procedural safeguard most likely to slow it. Strict scrutiny demands the opposite.

The right to family integrity is fundamental. Its infringement demands strict scrutiny. Vermont's rule permits the permanent severance of that right without any requirement that the state first attempt less restrictive alternatives, and the record in this case shows what happens when that

[7] Vivek Sankaran & Christopher Church, *Rethinking Foster Care: Why Our Current Approach to Child Welfare Has Failed*, 73 SMU L. Rev. Forum 123, 133 (2020).

rule is applied to a family that needed services rather than separation. This Court should grant review and hold that the Constitution requires more than Vermont offered Petitioners and their children.

CONCLUSION

The State has failed to meaningfully address or rebut Petitioners' arguments. Because this case raises important questions of federal statutory and constitutional law upon which the states are split, the petition for a writ of certiorari should be granted and the judgment of the Vermont Supreme Court should be reversed.

Respectfully submitted,

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