No. 25-840

IN THE
Supreme Court of the United States

INTERNATIONAL PARTNERS FOR ETHICAL CARE, INC.; ADVOCATES PROTECTING CHILDREN; PARENTS 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, AND 5B,

PETITIONERS,

v.

ROBERT FERGUSON, GOVERNOR OF WASHINGTON, IN HIS OFFICIAL CAPACITY; NICK BROWN, ATTORNEY GENERAL OF WASHINGTON, IN HIS OFFICIAL CAPACITY; AND TANA SENN, SECRETARY OF THE WASHINGTON DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES, IN HER OFFICIAL CAPACITY

RESPONDENTS

On Petition for Writ of Certiorari to United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICUS CURIAE* FOUNDATION FOR MORAL LAW IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*[1]

Amicus Curiae Foundation for Moral Law ("the Foundation") (www.morallaw.org) is a national public-interest organization based in Montgomery, Alabama, dedicated to the strict interpretation of the Constitution as written and intended by its Framers and the right to acknowledge God in the public arena.

The Foundation believes the Constitution protects the right of parents to have custody of their children and to raise and educate them in what they believe to be true and correct moral values. The Foundation further believes Washington State, by establishing sanctuary shelters through which runaway children can be transgendered without the consent or knowledge of their parents, is a flagrant violation of their parents' constitutional rights to liberty under the Fourteenth Amendment and to free speech and free exercise of religion under the First Amendment.

SUMMARY OF THE ARGUMENT

Most parents treasure their children more than any earthly possession; the Psalmist says" children are a heritage of the LORD" (Psalm 127:3).

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[1] Pursuant to Rule 37.2, counsel of record for all parties received notice of intent to file this brief at least ten days before the due date. Pursuant to Rule 37.6, no party or party's counsel authored this brief in whole or in part, or contributed money that was intended to fund its preparation or submission; and no person other than the *amici curiae*, their members, or their counsel, contributed money that was intended to fund the preparation or submission of this brief.

Training children in the proper moral values is, Appellants believe, a sacred obligation (Deuteronomy 6:7; Proverbs 22:6).

Sadly, many Washington State parents fear that if they train their children in proper moral values, their children may run away to state-run shelters where they will be transgendered and otherwise change. And yet, the Ninth Circuit has ruled that these parents lack standing to challenge Washington's shelter policies because they have not yet actually lost their children. A plethora of Constitutional rights are at stake – freedom of speech, free exercise of religion, and most directly in this case, parents' fundamental Fourteenth Amendment right to the care, custody and control of their children – and the Ninth Circuit says these parents can do nothing about it until their children are gone.

Must these parents actually lose their children, perhaps never to see them again, before they can bring their challenge in court?

At least one of the Appellants has gender-confused children, one of whom has previously run away from home. Because of the State's policies, they have a heightened risk of losing their children, and they are therefore "chilled" from teaching their children as they believe they should, for fear of losing them.

The Foundation believes Appellants have satisfied the standing requirement. Because many parents in Washington State and all across the country are similarly situated, we believe this Court should

grant this Petition for Certiorari and reverse the ruling of the Ninth Circuit.

ARGUMENT

I. Parental rights are among the most fundamental of all rights protected by the United States Constitution.

This Court has recognized the right of a parent to the custody and control of his child as one of the most important rights granted by God and protected by the United States Constitution.

The Declaration of Independence recognizes that all men are "endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men…"

The Constitution gives protection to the God-given right of "liberty" in the Fifth Amendment ("nor shall any Person be deprived of life, liberty, or property without due process of law") and in the Fourteenth Amendment ("nor shall any State deprive any person of life, liberty, or property without due process of law").

This Court has, in a series of cases, interpreted the "liberty" guarantee of the Fourteenth Amendment to include the right of a parent to direct the education and upbringing of his child. In *Meyer v. Nebraska, 262* U.S. 390 (1923), the Court invalidated a Nebraska law requiring that children be taught in the English language only,

upholding the right of Meyer to send his children to a Lutheran school that employed a teacher of German. As this Court explained, the term "liberty" in the Fourteenth Amendment

> …denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. Plaintiff in error taught this language in school as part of his occupation. His right thus to teach and the right of the parents to engage him to so instruct their children, we think, are within the liberty of the amendment.

Two years later, in *Pierce v. Society of the Sisters,* 268 U.S. 510 (1925), the Court expanded upon *Meyer* by striking down an Oregon law that forced all parents to send their children to public schools:

> Under the doctrine of *Meyer v. Nebraska* … we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents to direct the upbringing and education of children under their control. As often heretofore pointed out, rights

> guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State. The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.[2]

The Court took a further step two years later in *Farrington v. Tokushige,* 273 U.S. 284 (1927), holding that not only could a governmental entity (in this case the Territory of Hawaii) not force parents to send their children to public schools; they also could not force them to send their children to private schools that were essentially similar to public schools.

Again in 1972, this Court considered a clash between the State of Wisconsin, which claimed a compelling interest in ensuring that all children receive an education, and the Amish who asserted their parent right to determine the upbringing and education of their children coupled with their First

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[2] *Pierce* was a parental rights case, not a free exercise case. A companion case, *Pierce v. Hill Military Academy,* involved a secular military school.

Amendment right to free exercise of religion. Citing *Meyer* and *Pierce,* this Court concluded in *Wisconsin v. Yoder,* 406 U.S. 205, 214 (1972), that

> a State's interest in universal education, however highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children, so long as they, in the words of *Pierce,* 'prepare [them] for additional obligations.'

The Court further stated at 232,

> The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the 0upbringing of their children is now 0established beyond debate as an 0enduring American tradition.000

Most recently, in *Troxel v. Granville,* 530 U.S. 57 (2000), this Court considered a Washington statute that authorized the superior courts to grant visitation rights to "any person" at "any time" if "visitation may serve the best interest of the child." This Court agreed with the Washington Supreme Court that the statute "unconstitutionally interferes

with the fundamental right of parents to rear their children." *Id.* at 60. This Court held at 65 that "The 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."

Citing extensively from *Meyer, Pierce, Yoder, Stanley v. Illinois,* 405 U.S. 645 (1972), *Quilloin v. Walcott,* 434 U.S. 246 (1978), *Parham v. J.R. ,* 442 U.S. 584 (1979), *Santosky v. Kramer,* 455 U.S. 745 (1982), and other cases, this Court concluded at 66 that "it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children."

In a more recent case specifically dealing with parental rights in the medical care of a child, *Pope v. Cnty of San Diego*, 719 F. Supp.3d 1076 (S.D. Cal. 2024) solidified the parent's 14th Amendment right to participate in their children's medical care, referencing the following holdings: *United States v. Wolf Child*, 699 F3d 1082, 1091-92 (9th Cir. 2012) "Far more precious than property rights, parental rights have been deemed to be among those essential to the orderly pursuit of happiness by free men, and to be more significant and priceless than liberties which derive merely from shifting economic arrangements"; *Lehr v. Robertson*, 463 U.S. 248, 258 (1983) "[T]he relationship of love and duty in a recognized family unit is an interest in liberty entitled to constitutional protection"; *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) "[i]t is

cardinal . . . that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." In *Pope*, the court goes on to state, "Naturally, a parent's interest in 'the care, custody, and control of their children,' *Troxel*, 530 U.S. at 65, encompasses the right to make 'medical decisions for their children." *Wallis ex rel. Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th Cir. 1999). Quoting *Parham*, 442 U.S. at 603, *Pope* reiterated the principle that "[m]ost children, even in adolescence, simply are not able to make sound judgments concerning decisions, including their need for medical care or treatment." *Pope* at 1085. Continuing with *Parham*, the court stated, "Parents on the other hand, 'can and must make those judgments,' because 'parents possess what a child lacks in maturity, experience, and capacity for judgment.'" *Id.* (quoting *Parham* at 602, 603). Relying on *Mann v. County of San Diego*, 907 F.3d 1154, 1162 (9th Cir. 2018), *Pope* reiterated,

> [P]arental consent is critical in medical procedures involving children, 'because children rely on parents or their surrogates to provide informed permission for medical procedures that are essential for their care.' Thus, for a child to benefit from informed medical decisions, a parent must be notified of any medical services intended for the child and affirmatively consent to such procedures."

Pope at 1085. *See Mann*, 907 F.3d at 1162 ("[A] parent's right to notice and consent is an essential protection for the child and the parent."). *Pope* went on to state that parents "have a strong liberty interest in not only notice and consent for their children's medical events, but also the opportunity to be near their children during such events. . . .[p]arents retain these rights regardless of the nature of the medical procedure." *Pope,* at 1085 (referencing *Parham*, 442 U.S., at 603). *Pope* further stated, "The Supreme Court has affirmed that parents presumptively have the 'authority to decide what is best for the child,' whether the decision concerns committing the child to a mental hospital or simply authorizing a 'tonsillectomy, appendectomy, or other medical procedure.'" *Id.* (quoting *Parham* at 603, 604.) *Pope* once again relies on *Mann* at 1162, by quoting, "A parent's due process right to notice and consent is not dependent on the particular procedures, the environment in which the [services] occur, whether the procedure is invasive, or whether the child demonstrably protests." *Pope* at 1086.

The 9th Circuit has held that while fundamental parental rights are long established, they are "not absolute." *Mueller v. Auker*, 700 F.3d 1180, 1186 (9th Cir. 2012). However, the courts have only recognized two circumstances in which the rights of parents to make medical decisions "step aside." *Id.* According to *Parham*, 442 U.S. at 606-607, the first instance where parents' rights may be extinguished is only after a formal hearing in which "all available sources" were considered and the parents were afforded due process, where a neutral

adjudicator concludes that the parents neglected or abused their child. *See also Wallis v. Spencer* at 1141; *see also Mueller*, 700 F.3d at 1187. In the case at hand, the Washington statute provides no hearing, consent, or even notice for parents whose children are accepted by a shelter and provided transgender assistance. The only other instance where parents' rights to make a medical decision might be overridden by the state is in an emergency situation "when the children are subject to immediate or apparent danger or harm." *Mueller* at 1187. Again, the Washington statute does not require that the children are in immediate or apparent danger of harm.

Furthermore, the fundamental rights of parents do "not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State." *Santosky v. Kramer,* 455 U.S. at 753 (1982). The Washington statute requires no finding that parents be unfit or in any way deficient as parents. Holding the traditional view of sex and gender that until a few decades ago was almost the universal view of mankind hardly constitutes unfitness. Additionally, the Court has concluded that when the state wishes to provide medical attention to a child in temporary protective custody, it must "(1) notify the parents;" "(2) obtain either parental consent or a court order in advance;" and "(3) permit the parent to be present at [or nearby] the [medical event]." *Benavidez v. City of San Diego*, 993 F.3d at 1150 (9th Cir. 2021). Failure to do so violates the parents' Fourteenth Amendment due process rights. *Id.*

Parental rights, then, are among the oldest and most highly respected of all rights, especially when coupled with a free exercise claim. Of course, in order to assert a parental rights claim, one must have standing. But as the Foundation will demonstrate, the purpose of the standing requirement is to facilitate the resolution of disputes, not prevent such resolution. And as the Foundation will further demonstrate, the standing requirement is applied with less rigidity when fundamental rights are at stake.

II. The Standing Requirement is intended to facilitate the protection of constitutional rights, not to prevent people from seeking justice.

Standing is implicit in the concept of "case" as the term is used in Article III of the U.S. Constitution. Cases are not hypothetical problems such as one might see on a law school exam. Cases are real flesh-and-blood controversies in which actual parties are on opposite sides of an issue and have a real stake in the outcome. This helps to ensure that the case will be vigorously litigated on both sides and that the court has the benefit of such vigorous litigation as the court reaches a decision.

But the standing requirement is intended to facilitate justice, not prevent it. The requirement is not intended to force a litigant to suffer extraordinary and irreparable loss in order to have standing. In the case at hand, must these parents actually lose their children, perhaps never to see them again, likely never to have the relationship with their children that they had envisioned before their birth, when a timely-filed lawsuit might

prevent that loss? So, must a criminal defendant wait until after he is executed before he can file a lawsuit challenging the constitutionality of capital punishment? No, he need not wait until irreparable harm has been inflicted, especially when a fundamental right is at stake.

The three essential elements that determine standing are indicative of the courts' intent to protect the constitutional right to bring a case or controversy before irreparable harm has been inflicted. In *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992), this Court stated that over the years, "our cases have established that the irreducible constitutional minimum of standing contains 3 elements." The litigant must have suffered an "injury in fact" that is concrete, particularized, and "actual or imminent, not conjectural or hypothetical"; that a causal connection exists between the injury and the challenged conduct of the defendant, such that the injury is "fairly traceable" to the defendant's conduct and not the result of action by third parties not before the court; and that it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." This Court stated that

> [w]hen the suit is one challenging the legality of government action or inaction, the nature and extent of facts that must be averred or proved in order to establish standing depends considerably upon whether the plaintiff is himself an object of the action (or forgone action) at issue. If he

> is, there is ordinarily little question that the action or inaction caused him injury, and that a judgment preventing or requiring the action will redress it.

Id. at 561, 562

When petitioners come before the court on behalf of third parties, this Court has said that they must have a 'personal stake' in the litigation. *Baker v. Carr*, 369 U.S. 186, 204 (1962). That 'personal stake' is the flip side of the same coin of the more specific standing requirements of injury in fact, redressability, and causation. *Sprint Commc'ns Co. v. APCC Servs. Inc*, 554 U.S. 269, 288 (2008). Both are "simply different descriptions of the same judicial effort to ensure, in every case or controversy, "that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination." *Id.* See also *Massachusetts v. EPA*, 549 U.S. 497 (2007)("At bottom, the gist of the question of standing is whether petitioners have such a personal stake in the outcome of the controversy to assure that concrete adverseness.").

Standing merely ensures concrete adverseness so that the party or parties asserting injury can have their day in court. The essential requirements of injury in fact, redressability, and causation are not so stringent that a person cannot come before the court unless the damage has already been done. The requirements help the court understand that due to the defendant's actions, an injury is in fact taking place, whether completed or in the process of being completed, and the court has

the ability to redress the issue. The Foundation will show that in the case at hand, the Appellants have a personal stake and injury in fact concretely adverse to Defendants' actions, which the court can and should redress.

III. The Courts apply the Standing Requirement less strictly when fundamental rights are at stake.

Sir William Blackstone's maxim, *ubi jus ibi remedium* (where there is a right, there is a remedy for its violation), is a foundational principle of American justice. The standing requirement is intended to further, not thwart, that principle. For that reason, when fundamental rights are at stake, the standing requirement is somewhat relaxed.

For example, in *Griswold v. Connecticut,* 381 U.S. 479 (1965), this Court held that the plaintiffs/appellants had standing to assert the privacy rights of their patients to birth control, even though they themselves were not threatened with a violation of their privacy rights. Appellants had been convicted of providing birth control advice to their patients, but their lawsuit was on behalf of their patients' privacy rights. This Court held that that was sufficient to confer standing. Note that the Court in *Griswold* cited *Meyer,* because the privacy right that protects parents' rights to raise and train their children is the same privacy right that protects married couples as they choose whether to practice birth control.

Likewise, in *Roe v. Wade,* 410 U.S. 113 (1973), Roe was not required to undergo an abortion and then be prosecuted for having done so. Rather, she

was held to have standing to challenge the abortion statute because she was pregnant and therefore had a heightened likelihood of either undergoing an abortion or being denied her alleged right to have one.[3] And in the companion case of *Doe v. Bolton,* 410 U.S. 179, 188 (1973), this Court said that a person "should not be required to await and undergo a criminal prosecution as the sole means of seeking relief." The Foundation suggests that losing the custody of a beloved child is a far greater tragedy and ordeal than undergoing a criminal prosecution, and it is often irreparable.

In *Pierce v. Society of Sisters,* cited above, which was combined with *Pierce v. Hill Military Academy,* the schools were allowed to assert the parental rights of those who wanted to send their children to the plaintiff schools.

In *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021), this Court concluded that Uzuegbunam had standing to sue for violation of his free speech rights on a college campus by limiting him to certain "free

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[3] In fact, Jane Roe (whose real name was Norma McCorvey) never had the abortion, gave her child up for adoption, claimed that she had been misused and manipulated into participating in the lawsuit, and became a strong opponent of abortion. https://www.biography.com/activists/a44120513/jane-roe?utm_source=google&utm_medium=cpc&utm_campaign=mgu_ga_bio_md_pmx_hybd_mix_us_20739831539&gad_source=1&gad_campaignid=20743513357&gbraid=0AAAADpTwOX3lNOCi-k6DUCWchjIpOhTl3&gclid=Cj0KCQiA4eHLBhCzARIsAJ2NZoLXVjpsgMZdXwJpaTgxlCToQ_nuDBZMwJrW3FNhIhIBHJQJQRLc7TwaAo3dEALw_wcB

speech zones," even though the school had already eliminated the free speech zone restrictions.

Many constitutional scholars have argued against an overly-restrictive application of the standing rule. See, for example, Lawrence Tribe, *American Constitutional Law 3d Ed.* Professor Tribe suggests that the courts should and do accept early legal challenges in at least two circumstances: (1)when the plaintiff has alleged a set of facts (the Washington statute establishing sanctuaries) that "have already produced significant *present* injuries produced by the same forces that plaintiff alleges will cause the future event that he alleges he has a right to avoid"[4]; and (2) when "additional facts are not particularly useful to resolution of the pending challenge, so that such cases can be resolved as well at an early stage."[5]

These cases demonstrate the judicial tendency to prioritize fundamental rights over strict standing requirements, thereby facilitating broader access to the courts for individuals seeking to protect their rights.

IV. This Case Satisfies the Court's Standing Requirements.

Appellants entirely satisfy all three essential elements of standing.

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[4] Lawrence Tribe, *American Constitutional Law 3rd Ed.,* (Foundation 2000) 337

[5] *Id.* 338.

(1) Appellants face threat of injury and have suffered injury in fact.

This Court has held "the possibility of future injury may be sufficient to confer standing on plaintiffs; threatened injury constitutes 'injury in fact.'" *Cent. Delta Water Agency*, 306, F.3d 938, 947 (9th Cir. 2002). *See also Ecological Rights Foundation v. Pacific Lumber Co.*, 230 F.3d 1141, 1151 (9th Cir. 2000); *Friends of the Earth v. Gaston Copper Recycling Corp.*, 204 F.3d 149, 160 (4th Cir. 2000) ("The Supreme Court has consistently recognized that the threatened rather than actual injury can satisfy Article III standing requirements."). Furthermore, this Court has firmly established that a 'plaintiff must show that he 'has sustained or is *immediately* in danger of sustaining some direct injury' as a result of the challenged official conduct and the injury or *threat of injury* must be both 'real and immediate.' *L.A. v. Lyons*, 461 U.S. 95, 102 (1983) (emphasis added). In the present case, the threat of injury and the injury in fact are so intertwined, that one does not exist without the other.[6]

Appellants face the threat of the most severe future injury a parent can imagine: loss of their child or children. If Appellants' minor children left home and went to a sanctuary, Appellants would

[6] This Court recognized Lyon's claim for past injury but did not grant him an injunction because he had failed to show a heightened likelihood of being beaten by the LA police in the future. In contrast, Appellants have shown not only present injury, but also a heightened likelihood that they will face future injury because their children are gender-confused and at least one has run away from home in the past.

likely lose control and custody of their children. More than that, the children would be transitioned into the opposite gender. If Appellants ever saw their children again, their relationship would be very strained, very remote, and possibly nonexistent. These Appellant parents, therefore, stand to be deprived of what this Court in *Troxel* called "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel* at 65. And this is a heightened likelihood, because at least one Appellant has children who are already "gender-confused" and at least one of their children has previously run away, although not to a shelter because Washington had not yet established the shelters at that time.

The Washington amended law immediately puts Appellants' fundamental rights in danger. Their children can now leave the home, enter a state shelter, and receive care without notification to the parents. Furthermore, the state can now automatically usurp due process owed to the parents. As previously stated, *Parham* established that parent's rights can only be extinguished after a formal hearing by a neutral adjudicator who concludes that the parents neglected or abused their child. *Parham* at 606-607. The amendment now allows shelters to withhold notifying parents for "compelling reasons" to include but not limited to "(i) circumstances that indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect; or (ii) [w]hen a minor is seeking or receiving protected health care services."[7] By

[7] Wash.Rev.Code §13.32A.082(2)(c)(i-ii) (2023)

creating the second compelling interest, the state is essentially declaring a parent unfit and removing parental rights without due process of the law, allowing the state to make decisions for the child in place of the parent.

The likelihood of a gender confused child to be manipulated by state actors is heightened. State actors can now counsel children to receive harmful medical care without the consent of their parents. This immediately hinders parents' ability to see to the medical needs of their children and prevents the child from receiving the nurture and care only a parent can provide.

The Ninth Circuit may not have taken Appellants' present standing argument seriously because they fail to realize how important it is to Appellants that their children be raised with true and correct moral values. Some parents may not be overly concerned that their children have transgendered and therefore such parents may not fully understand or appreciate Appellants' concern. But we must look at this deprivation through the Appellants' eyes. In *Engel v. Vitale*, 370 U.S. 421 (1962), parents objected to their children saying a prayer in public schools. It did not matter that many, probably most other parents, did not object to such prayers and probably approved them. This Court granted certiorari to the petitioning parents opposed to prayer. In this case, Appellants sincerely and strongly believe that God has created two genders, that these genders are fixed, and that attempting to change one's gender is wrong. Even if they were alone in holding this belief, the

Constitution would still protect their right to hold it. In fact, their belief is shared by a majority of Americans, and that belief was nearly universal, not only in the United States but throughout the world at present and at all times of history.

(2) The Injury and Threat of Injury are traceable to the challenged action of the defendant.

Appellants' immediate and imminent inability to see to, direct, and undertake the nurture, care and custody of their children is directly traceable to Washington's amended law which now gives the state authority to *not* notify parents without due process of the law.

Washington State has established shelters in which, if Appellants' children run away from home, they will be welcomed, affirmed in their transgender ideas, and aided in their transition, without Appellants' knowledge or consent. By establishing these shelters, the State is in effect saying to Appellants' children, "You don't have to listen to your parents' views of gender. If you don't like what they are telling you, just leave home and come to our shelter. We will welcome you with open arms, affirm your gender identity, and assist you in your transition. And you don't have to worry about confronting your parents, because we won't tell them, and you don't have to tell them either."

Knowing this, Appellants are on "eggshells" around their children. They dare not teach their children what they believe to be true and right about human sexuality and transgenderism, because if they do, there is a strong likelihood that their

children will run to the shelter – and by establishing these shelters and making minors aware of them through the Office of Homeless Youth, by publicizing data and resources through the Washington State Department of Health and the Commerce Department, through the YWCA North Central Washington and HopeSource, and by other means, the State of Washington has directly encouraged Appellants' children to do exactly that.

Washington State has thus confronted Appellants with a "Hobson's choice." They must either (1) surrender their First Amendment free speech and free exercise right and their Fourteenth Amendment parental right to teach their children what they believe to be true and right about human sexuality; or (2) run a substantial and heightened risk of losing their children. This Court has repeatedly held that when the state puts a person in that kind of dilemma, the State violated their constitutional rights. See *Sherbert v. Verner,* 374 U.S. 398 (1962) (forcing a Seventh-day Adventist to either work on Saturdays or lose unemployment benefits was a free exercise violation); *Simmons v. U.S.,* 390 U.S. 377, 391 (1968) ("intolerable" Hobson's choice to force defendant to give up his 5th Amendment right to refuse to testify, in order to testify to present evidence to prove standing for a Fourth Amendment motion to suppress); *Thomas v. Review Board,* 450 U.S. 507 (1981) (forcing Jehovah's Witness to either work on tank turrets or lose unemployment benefits was a free exercise violation); *Crawford v. Washington,* 541 U.S. 36 (2004) (defendant forced to waive his right to spousal

privilege or waive his right to confront on cross-examine).

Washington State, by dangling these shelters in front of gender-confused minors, has thus had a "chilling effect" upon Appellants' exercise of the First and Fourteenth Amendment rights to raise their children in what they believe to be the right moral views about human sexuality. As this Court held in *Uzuegbunam*, the deprivation of a constitutional right, even temporarily or for a brief period of time, is a constitutional violation even if no other injury is shown. *Uzuegbunam* at 282.

(3) The threat of injury and injury in fact will likely be redressed by a favorable decision.

The violation of parents' fundamental right to the custody, control, and nurture of their children can be remedied by finding the amended Washington Laws unconstitutional.

While the standing requirement is intended to ensure access to the courts by preventing them from being clogged with frivolous litigation, an overly rigorous application of the doctrine can increase rather than decrease litigation. In the case at hand, granting certiorari could resolve a Constitutional issue and forestall a multitude of lawsuits not only in the State of Washington but in other states that have established or are considering establishing sanctuaries for transgender runaways.

CONCLUSION

Appellants have clearly established:

(1) An injury in fact, because their right to raise their child and instruct them on sexual matters in accordance with that which they believe is true and right has been "chilled," and they face a heightened likelihood that they will be deprived of the custody of their children;

(2) The injury is traceable to the Appellees' challenged conduct, that of establishing shelters to which children can run and at which they can undergo transgender counseling, medication, and surgery without Appellants' knowledge or consent; and

(3) The remedy Appellants seek – having the Washington State policy concerning these shelters declared unconstitutional – is likely to redress that injury.

This case involves a plethora of issues involving children's rights, transgender issues, parents' rights to teach their children, parents' rights to have custody of their children, free speech, and free exercise of religion.

These issues need resolution. If the Court refuses this case, many Washington parents will face similar threats concerning the upbringing and custody of their children. It is difficult to determine how many other states have or are considering similar shelters, but many states provide shelters and about 23 states have laws that prohibit

discrimination against transgender persons in housing. About 19 states have positioned themselves as "refuge" or "sanctuary" states and will accept transgender minors from other states. Can these states take children from their parents and transgender them? Parents, children, school officials, mental health professionals, and many others all across the nation are looking to this Court for answers.

By accepting this case and issuing a landmark ruling, this Court can prevent much expense and even greater heartbreak for parents and children all across America. The Foundation urges this Court to grant certiorari and issue a landmark ruling clarifying standing requirements and protecting both parents' and children's rights.

Respectfully submitted,

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