

No. 18-2574

**In the United States Court of Appeals
for the Third Circuit**

SHARONELL FULTON; CECELIA PAUL;
TONI LYNN SIMMS-BUSCH;
CATHOLIC SOCIAL SERVICES,
Appellants

v.

CITY OF PHILADELPHIA; DEPARTMENT OF HUMAN SERVICES
FOR THE CITY OF PHILADELPHIA; PHILADELPHIA COMMISSION ON
HUMAN RELATIONS,
Appellees

**On Appeal from the United States District Court
for the Eastern District of Pennsylvania
No. 2-18-cv-02075
Petrese B. Tucker, U.S. District Judge**

**BRIEF OF *AMICI CURIAE* FORMER FOSTER CHILDREN AND FOSTER
PARENTS AND THE CATHOLIC ASSOCIATION FOUNDATION IN
SUPPORT OF APPELLANTS AND REVERSAL**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to F.R.A.P. 26.1, *amici curiae* submitting this brief have no parent corporation nor do any publicly held corporations own 10% more of any of their stock.

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INTEREST OF *AMICI CURIAE*¹

Amici former foster children and foster parents served by Catholic Social Services (“CSS”) in Philadelphia, Pennsylvania, listed and described below, attest to the dignified placement and support that CSS provided to foster children and foster families.

Amici, The Catholic Association Foundation (TCA), is a lay organization dedicated to being a faithful voice for Catholics in the public square. Catholics have played a leading role in founding and running foster care placement agencies across the United States.

Amici strongly oppose the City of Philadelphia’s decision to freeze intake referrals of foster children to CSS and its imposition of unconstitutional conditions on future referrals that risk CSS shuttering the doors of its foster care program.

¹ Pursuant to Rule 29(a)(4)(E), all parties received timely notice of the intention to file this *amicus* brief and consented to its filing. No counsel for a party authored this brief in whole or in part. The Catholic Association Foundation contributed the costs associated with the preparation and submission of this brief. All statements made by *amici* former foster children and foster parents are on file with counsel for *amici curiae*.

WAYNE THOMAS was the answer to three-year-old Brittany's prayer over twenty-five years ago.

Brittany, the grandchild of Sharonell Fulton, one of the Appellants, prayed for someone to play with as she watched the children at the Our Lady of Victory Catholic School playground across from the Fulton house. At the same time, Wayne and his brother Sean were living in a dilapidated house with a drug-addicted uncle and aunt who fought viciously. During one fight, the boys' uncle mistakenly threw boiling water on the boys. Wayne thinks a neighbor called the police after hearing the cries. An ambulance was soon rushing the boys (age 5 and 7) to the hospital for medical treatment.

Upon their discharge, CSS placed Wayne and Sean with Ms. Fulton. Wayne stayed with Brittany and her younger siblings in the Fulton home until he was 19 years old. Wayne and his brother consider Brittany and Ms. Fulton's other two grandchildren their siblings. And Ms. Fulton? Wayne calls her "Meme." Meme "did not treat us any different than her own," says Wayne today. "What was theirs was ours."

Now 31, Wayne, was one of his biological mother's twelve children. She struggled with drug addiction and was incarcerated during much of Wayne's early childhood. "Meme was like a mother to me," says Wayne. Although Wayne's

father also battled addiction to drugs, he was a more constant presence in Wayne's life, thanks to Meme and CSS. They arranged for the boys' visits with their father and other siblings, half-siblings and extended relatives. After Wayne's parents were clean, they would visit more frequently and even join in birthday celebrations at Meme's house.

Meme never sought to adopt the boys. "She believed that since we had parents she was there to help in any way she could to keep us connected to them," Way said. "But at the same time, she would not let anything bad ever happen to us." Even though Wayne's parents were able to get back on their feet eventually, Wayne and Sean felt that Ms. Fulton's home was their home. Says Wayne, "I was happy with Meme."

He credits Meme and CSS for his success in life. While an Our Lady of Victory Catholic School 6th grader, Wayne represented the school at the World Youth Day in Germany in 2005—an honor Meme talks about to this day. After graduating from middle school, Wayne went on to study at Mercy Career and Technical School -- a private, Catholic vocational training high school. After this, Wayne accepted a job as an HVAC technician at the same company he has worked at for the past 12 years. "I look at my life and the lives of my other siblings who did not go to foster care," he says. "I think that my life is better because of what foster care gave me."

Meme opened her home to other foster children over the years. Wayne remembers that Meme and Wayne would plant a tree whenever a new foster child came to live with them. “She said that the tree represented new growth, new opportunities,” says Wayne. “Now when I visit Meme’s home, I see those trees. I think about my life – still growing, still thriving.”

What will happen if CSS is forced to close its doors? “Everything I went through that involved them gave me so much hope,” he says. “All the workers we had that helped us were great. They bring a positive respect to upcoming foster children that need their help. And mothers who want to foster will lose a great agency.”

THOMAS PAUL believes he was raised by a living saint.

Thomas was one of more than 100 foster children that Cecila Paul, one of the Appellants, received into her home. Thomas came to live with the Pauls when he was a newborn. His biological parents were involved, as Thomas says today, “in some bad stuff.” CSS placed him and his older brother Andrew (known as Drew), only a year his senior, into foster care with the Pauls, and the Pauls later adopted both boys.

Although the two boys later made contact with their biological parents, Thomas and Drew both consider Ms. Paul to be the only mother they ever knew. Says Thomas, “I think that whoever raised you is your parent.”

Thomas met many other foster children who were placed with the Pauls. Like Thomas, many had suffered abuse or abandonment. It was hard when kids he got used to left. “I have seen so much in my life that is sad,” he says, but “joy overcomes all of the pain in my life.”

Thomas is grateful to CSS for its unceasing support of Ms. Paul and foster children like him. He remembers feeling special when CSS sent presents at Christmas. The attention “helped him to keep his mind off any of the hard times.” He adds that CSS visits and assessments always helped “get kids out of their darkness.”

Growing up in Ms. Paul’s house prepared Thomas for life. She encouraged him to “work hard, focus and do what you like.” Today, he’s 33 years old, a general contractor and the father of two children, aged six and one. He credits the support he found at the Paul home for his success in life. He remembers Ms. Paul teaching him that, “No matter how hard life comes at you, keep going, keep your head up.”

As a father of two young children, he continues to look to Ms. Paul for advice and support in parenting. “She handles kids, those with emotional problems – so well.” He also believes that having been adopted after foster care has helped him to be a better father. It has inspired Thomas to “give something to my own children that I did not get from my biological parents.”

The most important gift he received as a child was love. “Love is everything,” says Thomas. “It goes a long way if you feel special – to know that someone actually wanted you.” Being wanted by someone like Ms. Paul – someone with “the biggest heart I know” – helped him cope with having been abandoned as a baby. The bottom line for Thomas: “I feel ... joy overcomes all of the pain in my life.”

Thomas thinks that the possibility of CSS shutting down its foster care program – a program that has done so much for him – is horrible. “I want other kids to have the opportunity that I did,” he says. “If they get shattered by situations that are not their fault, they should still have the chance to dream.”

KAREN QUINN has been a CSS-certified foster mother for 30 years. She “lost count” of how many foster children she and her husband have cared for over three decades, but thinks the number is “well over 30.” Of these children, Karen and her husband have adopted 5 and are legal guardians to one other.

Karen started caring for foster children after reading a request in her parish bulletin for long-term foster care providers for a needy child – Jamie. Jamie was 4 years old and at 7 years old was adopted by the Quinns.

The next two children who came to her home were Debby (2 years old) and Gus (8 years old). The two siblings stayed with the Quinns for 13 months. Karen remembers picking the young children up at the CSS office: “Gus was a skinny little boy, and Debby had a very sad face. Her eyes were not alive when we got her.” After just a few months in the Quinn home, however, Karen noticed that Debby’s eyes “lit up.” According to Karen, seeing the positive effect of a stable foster home on Debby, “is why I kept doing it for so long.”

Karen has cared for many babies over 30 years. Monika was born with cocaine in her system and spent her first year of life in Karen’s care. She then returned to live with her biological father, but continued to see the Quinns at holidays and during the summer. Her father contacted Karen when Monika was 6, asking if she could live at Karen’s again. Karen and her husband agreed to welcome Monika back home, this time as the child’s legal guardians. Now 25 years old, Monika lives only 10 minutes away from Karen and she is working toward her associate’s degree at the local community college.

Karen credits CSS for its unstinting commitment to supporting her as a foster parent. When placing a child in her home, CSS “gave every bit of information they had about the child. Often they were more responsive than the DHS social worker assigned.” “Any question you had that you couldn’t solve yourself,” Karen says, “you could ask” the people at CSS.

CSS’ contact with Karen and her foster children went far beyond monthly home visits. “Most of the kids came with very little clothing – especially if they were a brand-new baby,” but CSS would ask what Karen needed and either help supply additional clothing or provide an allowance. If Karen missed CSS-sponsored Christmas parties, the agency never forgot to send a gift for both the foster child and Karen’s now-adopted children.

DHS regulations for foster care have changed over the past 30 years, but CSS case workers always made sure that Karen knew of the changes and was in compliance. Karen also notes that because of CSS’ extended network of programs, both foster children and biological parents get referrals for care and services that other agencies can’t provide. For example, when one of Karen’s foster children needed special care -- like behavioral supports for former foster children Gus and Lauren -- CSS coordinated therapy without delay – “they were not put on a waiting list,” says Karen.

Karen and her husband are committed to helping all of their foster children maintain healthy relationships with siblings, parents and other relatives. One foster son, Gabriel, came to Karen's home when he was only 9 months old. Karen learned that Gabriel had two siblings living in foster care in Ocean City, New Jersey where Karen's family visited on summer vacations. Karen coordinated with the foster parent in Ocean City so that the siblings could spend time with their baby brother.

Karen's Catholic faith has played a large role in her work fostering children.

She remarks:

It is difficult when a child leaves after being with them for so long. When a child leaves, a small part of you leaves with them. You have to hope that you were there for a child when the child needed help. When people ask me "Why do you do it?" I respond that my faith teaches me to respond "Why not?" I can't help the whole world, but I can help one baby at a time.

The last foster child to live in Karen's home – a baby girl "born with serious addictions and in need of a lot of care" – went to live with a relative in late February 2018. Karen was preparing to receive another child, but intake at CSS was frozen. "I don't have any foster children at home," Karen says, "I feel lost."

What would happen if CSS were forced to shut down its foster care program entirely? Karen has the following words to share:

This is very frustrating for me. I would like to continue service... I would like to continue to do this, but I don't want to do it without the support of Catholic Social Services. I am just not too happy with the other agencies out there. They play by their own book of rules... My gift is to take care of these kids – give them a better start when they come to me and send them back as strong as they can be.

JAMIE HILL is now 34 years old. CSS placed her into foster care with Karen Quinn when she was four. “I know very little about the reasons for being placed into foster care,” she recalls today, “I know that there was some abuse and that a significant head injury led me to being taken from my home.”

But Jamie's recollection of her life at the Quinns could not be clearer: “lots of one-on-one time playing cards or memory games” and “lots of great memories.”

Like many foster children, Jamie struggled as a child. The early years of abuse had taken their toll. “Being a foster kid was hard. For 20 years it was really tough. There were a lot of hard times for me,” she says. “Growing up in the Quinn's home I always knew that I was loved, but it took me a long time to accept that.”

The Quinns adopted Jamie, and when she talks about them she calls them “Mom and Dad.”

Ms. Quinn was particularly attentive to Jamie. “When my mother saw that I was good at something, she tried to expose me to anything that would help me develop that talent.”

As the oldest child in the Quinn home, Jamie grew up “thinking that it was cool to have the home open for foster children.” But she also saw first-hand the damage that unhealthy homes had inflicted on the new children placed with the Quinns. “You can tell right off the bat what kind of home a child came from,” she says. “Lots of [these] kids were not held.”

That changed once they arrived at the Quinns. They were held and “spoiled” with affection. “Any child that comes into my parents’ home is receiving a good home,” Jamie says. “My parents were very accepting of everyone.”

Thanks to the Quinns’ support, Jamie graduated from high school, graduated from college and completed training as a physician’s assistant.

When Jamie married in 2014, Mr. Quinn, a deacon in their church, suggested he officiate the wedding. But Jamie insisted that he walk her down the

aisle. “It took a lot for me to get a dad,” she says, “and I wanted him to be a dad that day.”

That day three of her adopted sisters were among Jamie’s bridesmaids as well. Today, Jamie and her husband have two children of their own.

Jamie kept in touch with one of her biological sisters, but maintaining this relationship has not been easy for the two sisters. “Her life did not turn out like mine,” says Jamie. “Sometimes I feel that she is jealous of me because I got the better home, because I got out younger than she did.”

Upon learning of the CSS-intake freeze, her first thought was this: “We are better than this. It is not like this issue suddenly came up. This has been part of what the Catholic Church has taught forever. I was really shocked that the government could force a religious organization to do something against what they believe in.”

Even more distressing for Jamie is the freeze’s impact on the Quinn house. “My mom is waiting for that call at 3 a.m. in the morning, on the off chance that someone is going to need her for 3 hours or 3 years.... As I got older, I understood that my mom believes that being a foster mother is her calling from God. It is deep in her soul.”

This is one reason Jamie thinks it is important to “fight the good fight” to keep CSS open. Here’s another: “I gotta keep fighting for all these other kids so that they can have the life I had.”

Jamie thinks that “a foster home is the difference between life and death” for some kids. Jamie knows that she herself was “on a bad path” because of the trauma she suffered as a child. Her placement at the Quinn home was a crossroads. “If you have a good foster home – one where a parent treats you like their child -- you can make it. Without one, you can fall through the cracks.”

“CSS needs to keep open. It saved my life.”

WINNIE PERRY thought she would be a foster mother just over the summer. That was some 40 years and close to 100 foster children ago.

Ms. Perry first learned about CSS after reading its request for foster parents in her local newspaper. While not Catholic herself, Ms. Perry called the agency. Her mother cared for foster children and Ms. Perry felt moved to do the same. Of her four decades serving as a foster parent, Ms. Perry says: “It wasn’t good all the time. It wasn’t happy times all the time. But it was worthwhile. It was very rewarding.... I could give kids something they did not have – a stable home.”

Shardia, came to stay with Ms. Perry when she was 12 years old. According to Ms. Perry, Shardia was “out of control.” She was not violent, but she was

truant. Shardia stayed with Ms. Perry for three years and the two have kept in touch since then. Shardia is now in her 20s living on her own, with a child, and working as a school bus driver while studying toward a degree. “After Shardia realized that she did not want to go on being rebellious,” Ms. Perry says, “she turned her life around.”

From the start CSS supported the Perrys as foster parents. Shortly after the Perrys started as foster parents, the couple had an argument. Mr. Perry called CSS to pick up the foster children in their care. Rather than sever ties with the couple, CSS staff worked with the couple to resolve their conflict and the couple’s home stayed open for needy children.

CSS staff and case workers have continued their support over the years. “I have a lot of rules in my house,” says Ms. Perry. “But I would call CSS if anything happened that I couldn’t handle.” They arranged for therapists to help with the children. The kids were always CSS’s first priority, but CSS was always there for Ms. Perry. “They always supported me,” she says, “I never felt like I was alone.”

Each child placed in the Perry home became a member of the family. Ms. Perry says: “We didn’t use the term ‘foster children’ at home. They are our children.”

While most children stayed for only a year or so, a handful has kept ties with Ms. Perry to this day. Two are Anthony and Adrienne. Both came to the Perrys straight from the hospital – just days old on arrival. The Perrys adopted Anthony (now 35 years old) and Ms. Perry assumed legal custody of Adrienne while maintaining a close relationship with the girl’s birth mother (“the best natural mother I ever came in contact with”).

Ms. Perry understands the importance of the child’s relationship with his or her biological parents and knows they should return home to parents or relatives if that’s possible. “I learned a long time ago my place. I was not first. The natural parents are first. Sometimes this hurt a lot.”

Ms. Perry was often called to receive needy children -- “with only the clothes on their backs” – in the early morning hours. This was the case with siblings James (3 years) and Julia (8 months). Although she thought the children were going to stay with her for just a short time, Ms. Perry ended up adopting the children. James is now nine and Julia is seven, and Ms. Perry keeps them in touch with their biological grandmother by arranging for frequent visits.

What would happen if CSS is forced to close its doors? “It would be a terrible thing,” says Winnie Perry. “There are so many children out there who

need their help. They help the children and – as much as they can – the natural parents. They help the foster parents a lot. They give us so much support.”

ADRIENNE COX came to live with her CSS-certified foster parent Winnie Perry when she was a newborn. Dealing with an abusive husband, Adrienne’s mother thought foster care would be best for her daughter. Adrienne ended up living her entire childhood at the Perry home, though Perrys ensured that she maintained a close relationship with her biological mother.

“Ms. Perry had a lot of rules,” but “I learned a lot,” says Adrienne today. One of the most important lessons she was taught was that “despite your past, you can do anything.” All she had to do was “my best in whatever I started.”

Adrienne’s “best” resulted in graduation from high school and college as well as a master’s degree. Now a successful professional, Adrienne appreciates the nudges she received from her foster mom along the way. “My mom encouraged me to go to college,” says Adrienne of Ms. Perry, “even though I did not want to go at the time.”

As for the now-deceased Mr. Perry, Adrienne’s connection to him could not have been stronger: “He was my dad. He was everything to me. Many of my friends growing up did not even know that the Perrys were not my biological parents.”

Faith was important to the Perrys. “Our home was a Christian home,” says Adrienne. “We were expected to go to church and to participate. We were encouraged to do what is right and do right by others.”

Adrienne did this as a CSS-certified foster parent. Although she had to convince her initially hesitant husband, the couple fostered and later adopted their first two children. Says Adrienne, “I felt that I had to give what was given to me.”

She credits the way she parents her own adopted and biological children to the Perry’s example. For many foster children, learning to love is hard. In Adrienne’s experience, it happens only if “the foster child is considered her foster parents’ child.” “I go out of my way to make sure that my love for each of my children is clear to them,” she says. “A child’s ability to love is important. It opens up the door for the child to receive anything else they need.”

All this explains why the intake freeze at CSS -- “my agency” – is almost unthinkable to Adrienne. She is speaking up to let people know how valuable CSS has been in her life – and just how unique the services are that CSS provides. She has spoken with many former foster children and thinks that her story “seems unique.” She thinks CSS expectations and training for foster parents made her experience so different. In Adrienne’s opinion, CSS did more than merely arrange for a safe place for a needy child to live. “CSS gave me a family,” this one-time

foster child now says. “To take away this chance for another child is an injustice. Everyone needs a family.”

INTRODUCTION

Well over 400,000 children and youth are living in foster care in the United States today.² Increasing numbers of children are coming into the nation’s foster care as a result of parental drug addiction, particularly addiction to opioids.³ According to the City of Philadelphia, its current foster care system includes over 5,000 children and youth at any given time.⁴ In early March 2018, City officials put out an urgent call for 300 families to provide foster care, citing the increasing number of children coming into the system due to the opioid crisis.⁵

² See <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport24.pdf>. (The U.S. Department of Health and Human Services’ Adoption and Foster Care Analysis Reporting System Fiscal Year 2016 data calculated 437,465 children were in foster care. The data shows a steady increase in numbers over a five-year period.)

³ Reports by federal and state agencies responsible for foster care services indicate that the rise in parental substance use, including opioids, and the limited number of alternative placements explains the recent surge in the demand for foster families.

See e.g.,

<https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=181&articleid=4855>

⁴ See <https://beta.phila.gov/services/birth-marriage-life-events/become-a-foster-parent/>

⁵ See Terruso, Julia “Philly puts out ‘urgent’ call – 300 families needed for fostering,” Inquirer (March 8, 2018) <http://www.philly.com/philly/news/foster-parents-dhs-philly-child-welfare-adoptions-20180308.html> (local news accounts of the City’s request).

Shortly after the City's urgent call for foster families -- and despite decades of successfully partnering with CSS⁶ -- City officials told CSS that they would stop referring children to them unless they endorsed foster placement with same-sex couples. *Sharonell Fulton, et al. v. City of Philadelphia*, No. 18-2075 (E.D. Pa. July 13, 2018), slip op. at 10. The City's threat was made even though not a single same-sex couple had ever approached CSS seeking to become foster parents. See Appellants' Brief at 14. And city officials persisted despite CSS' suggestion that it would refer these couples to another agency, something agencies do for any number of reasons. *Id.* at 17; *id.* at 64 (citing evidence that the City "permits agencies to refer families elsewhere for reasons such as geographical proximity, medical expertise, behavioral expertise, specialization in pregnant youth, work with Native American children, and language needs."). Unable to keep its doors open under a prolonged intake freeze, CSS and several CSS-certified foster parents sought injunctive relief. The district court denied CSS' request to keep the status quo and instead upheld Philadelphia's new, strong-arm policy. *Fulton*, slip op. at 64.

Foster care is intended to be a temporary safe haven until a child can be reunited with his or her family or a permanent placement can be found. Children

⁶ In 1916, the Catholic Children's Bureau was established and staffed by Missionary Sisters of the Blessed Trinity, early Catholic pioneers in social work in the United States. Their work continues today through the dedicated efforts of CSS Foster Care Program and Adoption Services staff. Appellants' Brief at 6-7 and <https://cssphiladelphia.org/adoption/>

enter foster care because their families of origin are experiencing difficulties so severe that they cannot take care of them. These difficulties can include parental abuse, neglect or abandonment, physical or mental illness, addiction, incarceration or the risk of death.

Foster parents can help children cope and recover from the trauma of being removed from their home. Skilled and nurturing foster parenting makes the difference between a child's trauma being exacerbated or a child's flourishing and growing. As the American Academy of Pediatrics has observed:

Virtually all children in foster care have been abused and/or neglected. While they may have suffered physical injury, this is often the tip of the iceberg. Children who have experienced maltreatment often have developed different ways of perceiving and reacting to their world, ways that often prove maladaptive in a more normal environment. Foster and adoptive parents who do not understand these differences risk frustration and may feel resentment as they struggle to understand and raise their children. The resulting stress can disrupt placement and eventually lead to unfavorable outcomes for the children.⁷

Amici former foster children and foster parents have voluntarily come forward to publicly share their experience of the real and lasting positive support that CSS has offered as partners in Philadelphia's foster care program.

⁷ See <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/Documents/Guide.pdf>

ARGUMENT

I. CSS CONTRIBUTES TO THE DIVERSITY OF THE PHILADELPHIA'S FOSTER FAMILIES

In denying CSS' request for injunctive relief, the district court held that Philadelphia has a "legitimate interest" in ensuring "the pool of foster parents and resource caregivers is as diverse and broad as the children in need." *Fulton*, slip op. at 30.⁸ Any such interest is far from being served by putting CSS out of business.

Many aspiring foster parents who have chosen CSS to help them navigate the difficult process of caring for a foster child are religious themselves and seek the encouragement and assistance of people who speak their language, share their values, and understand their worldview.

CSS connected *amici* Wayne Thomas and his foster mother to the many educational opportunities offered by the Catholic Church in Philadelphia. While in middle school, Wayne traveled to Germany as his parochial school's representative at

⁸ The City's decision to freeze CSS-intake and demand written endorsements of same-sex couples is a clear violation of CSS' free exercise and free speech rights and is subject to strict scrutiny review by this Court. See generally Appellants' Brief at 25-38 (the City's actions which impose a burden on CSS' free exercise rights are not neutral, not generally applicable, and subject to discretionary exemptions); and Appellants' Brief at 52-57 (the City's demand that CSS endorse same-sex couples is compelled speech). Under such exacting review, the City must show more than simply a "legitimate interest" – it must show a "compelling interest" to justify encroaching on CSS' constitutionally protected rights. See generally, *Church of the Lukumi-Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993).

World Youth Day. Wayne “met so many people from all over the world” and counts many of the people he met on that trip as his friends today. Thanks to vocational training at Mercy Catholic High School, Wayne learned skills he uses in his career today as a HVAC technician.

Amici Thomas Paul is similarly thankful for CSS’ role in arranging for the parochial school education he enjoyed as a child. Fond memories of his time at that grade school came back to Thomas during a recent contract he performed resurfacing the concrete sidewalks surrounding the school.

Amici Karen Quinn first became a foster mother after reading in her parish’s Sunday bulletin about the need for foster homes for children in need. Ms. Quinn considers her Catholic faith as having inspired her commitment to foster parent for 30 years, and she wants to continue to care for at-risk children as a CSS-certified foster parent. *Amici* Jamie Hill similarly observes that her mother’s decision to foster was a “calling from God.”

Amici Winnie Perry, although not Catholic herself, never once considered working with an agency other than CSS. Perry and CSS have been perfect partners over the past 40 years. One of Ms. Perry’s foster daughters, *amici* Adrienne Cox, credits Ms. Perry’s desire to run a Christian home with the long-lasting collaboration.

II. CSS HAS A PROVEN TRACK RECORD OF RELIABLE FOSTER CARE

CSS has been a trusted resource for needy children and foster parents for over a century. The district court recognized as much when it observed that “the Parties have had a fruitful relationship; a relationship that has benefitted Philadelphia’s children in immeasurable ways.” *Fulton*, slip op. at 1.

Institutional experience and a commitment to putting the needs of children first help make CSS so successful. CSS places referred children with families after “extensive interviews and home studies by CSS social workers to assure they are qualified and well prepared for the responsibility of foster care.”⁹ The agency’s active involvement with City case managers is directed “to coordinate services to the [foster] family, birth family and child in order to achieve a positive outcome.”¹⁰

Amici Wayne Thomas says that his siblings who were not placed in CSS-certified foster homes had much different childhoods than his. “They were left alone. They worried about what they would have to eat.” But life at his foster mother Meme’s house was different for Wayne and his brother Sean. *Amici* Thomas Paul similarly thinks of “all of the opportunities” he had growing up thanks to being placed by CSS in foster care.

⁹ See <https://cssphiladelphia.org/adoption/>

¹⁰ *Id.*

Amici foster mother Karen Quinn says that CSS went “above and beyond” meeting the material needs of children placed in her home. Her kids received the help they needed right away – “without being placed on a waiting list.” *Amici* foster mother Winnie Perry similarly notes that CSS staff were there for “anything I couldn’t handle.”

Amici Adrienne Cox credits CSS with offering something “unique.” “It must have been something that they expected of their foster parents or training or something that made my experience different” from that experienced by other former foster children she has known. That’s why, when Adrienne and her husband chose to become foster parents, they chose CSS to help them become foster parents. Adrienne’s connection is so strong that she refers to CSS as “my agency.”

III. CSS SUPPORTS PERMANENT HOMES FOR NEEDY CHILDREN

Foster care should offer a child a temporary safe haven until a permanent placement can be secured. CSS supports this child-centered goal by considering foster parents as “part of the professional team” to mentor and support the relationship between the child and birth family.¹¹ Such a “team-based case management approach” with foster parents allows CSS to constantly assess “the

¹¹ See <https://cssphiladelphia.org/adoption/>

continued appropriateness of temporary placement” and explore “options for permanency through return to the birth family, placement with kin, or adoption.”¹²

CSS and Ms. Fenton encouraged *amici* Wayne Thomas to maintain a relationship with his biological parents and siblings. Wayne enjoyed CSS-supervised visits while his parents were recovering from addiction. And, when Wayne’s parents stayed clean, Meme included them in family celebrations at her home. Long-time CSS-certified foster parent *amici* Karen Quinn embraced the goal of connecting foster children with relatives. She reached out to an out-of-state foster family so that her foster son Gabriel could visit with his biological siblings during a family trip. Quinn and her husband also adopted several of their foster children when the best permanent home for the child was the Quinn home. CSS helped give *amici* Thomas Paul and his brother Sean a loving and stable home with the Pauls. Thomas is proud to be an adopted child in the Paul family.

Amici Winnie Perry encouraged the birth mother of her foster child *amici* Adrienne Cox to keep ties with Adrienne and arranges visits with the grandmother of her former-foster, now-adopted children James and Julia.

¹² *Id.*

IV. CSS POLICY DOES NOT INTERFERE WITH THE INTERESTS OF SAME-SEX COUPLES

Philadelphia, like other jurisdictions, remains free to place children with same-sex foster parents. CSS has never interfered with these efforts. Twenty-nine of the thirty agencies working with the City are willing to certify same-sex couples as foster parents. The City also has an active public outreach arm to promote foster parenting among same-sex households. See Appellants' Brief at 64. It need not coerce CSS into publicly promoting the City's views or demand as a condition for placing needy children that CSS alter its sincerely-held religious beliefs about marriage.

CONCLUSION

If the district court's order denying injunctive relief stands, Philadelphia will have succeeded in shutting down CSS' foster care program after its having served needy children for decades. For the sake of the many children in need, and for those expressed in Appellants' Opening Brief, *amici* request this Court reverse the district court's denial of injunctive relief.

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Respectfully Submitted,

s/ Andrea Picciotti-Bayer

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CERTIFICATION OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(c)(i) and L.A.R. 31.1(c), I certify that:

1. This brief complies with the type-volume limitations of Fed. R. App. P. 32 (a)(7) because the brief contains 5,890 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii), and thus does not exceed the 6,500-word limit.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using the Microsoft Word word-processing system in Times New Roman that is at least 14 points.

3. The text of the brief filed with the Court by electronic filing is identical.

4. This brief complies with L.A.R. 31.1(c) in that prior to being electronically filed, it was scanned by the Webroot SecureAnywhere Endpoint Protection v9.0.20.31 and found to be free from computer viruses.

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2018, I caused the Brief for *Amici Curiae* to be filed with the Clerk of the United States Court of Appeals for the Third Circuit via electronic filing and by causing an original and six paper copies of the brief to be sent via FedEx overnight mail. Counsel of record will receive service via the Court's electronic filing system.

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