

No. 18-15963

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

J.P., by and through his Guardian Ad Litem, Shannon Villanueva;
SHANNON VILLANUEVA,
Plaintiffs-Appellees,

v.

COUNTY OF ALAMEDA; DIANE DAVIS MAAS; SUE MAY,
Defendants-Appellants,
and

TRIAD FAMILY SERVICES; MARIA REFUGIO MOORE,
Defendants.

Appeal from the United States District Court for the Northern District of California
The Honorable Yvonne Gonzalez Rogers
Case No. 4:17-cv-05679-YGR

**BRIEF OF *AMICI CURIAE* YOUTH ADVOCACY ORGANIZATIONS
SUPPORTING PLAINTIFFS-APPELLEES J.P., et al.
AND AFFIRMANCE**

LEECIA WELCH (CA BAR NO. 208741)
FREYA PITTS (CA BAR NO. 295878)
MELISSA ADAMSON (CA BAR NO. 319201)

NATIONAL CENTER FOR YOUTH LAW
405 14th Street, 15th Floor
Oakland, CA 94612
Telephone: (510) 835-8098
Facsimile: (510) 835-8099
Email: lwelch@youthlaw.org

Counsel for Amici Curiae

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 29(a)(4)(A) and 26.1 of the Federal Rules of Appellate Procedure, Amici Curiae National Center for Youth Law, et al., disclose that the following Amici are non-profit corporations with no parent corporations or stock owned by any publicly held corporation:

- National Center for Youth Law
- Advokids
- Bay Area Legal Aid
- Children's Rights
- East Bay Children's Law Offices
- Juvenile Law Center
- Legal Services for Children
- National Association of Counsel for Children
- Youth Law Center

TABLE OF CONTENTS

| | Page |
|--|-------------|
| CORPORATE DISCLOSURE STATEMENT | i |
| STATEMENT OF INTEREST OF AMICI CURIAE..... | 1 |
| INTRODUCTION..... | 6 |
| I. THE U.S. CONSTITUTION PROTECTS THE SIBLING RELATIONSHIPS OF YOUTH IN FOSTER CARE..... | 7 |
| A. U.S. Supreme Court precedent clearly establishes the importance of familial relationships..... | 7 |
| B. Federal court precedent also clearly establishes a First Amendment right to familial association..... | 8 |
| C. <i>Ward</i> and <i>Mann</i> do not limit the Plaintiff’s First Amendment right to familial association. | 11 |
| D. The objective characteristics of the sibling relationship between J.P. and M.M. strongly support an intimate association right. | 14 |
| II. FEDERAL AND CALIFORNIA LEGISLATION HAVE EMPHASIZED THE IMPORTANCE OF FOSTER YOUTH SIBLING RELATIONSHIPS FOR DECADES..... | 15 |
| A. Federal law requires state child welfare agencies to prioritize the sibling relationships of youth in foster care..... | 15 |
| B. California law requires child welfare agencies to preserve and protect the sibling relationships of youth in foster care..... | 17 |
| III. SOCIAL SCIENCE RESEARCH HAS DEMONSTRATED THE EXTRAORDINARY IMPORTANCE OF SIBLING RELATIONSHIPS FOR YOUTH IN FOSTER CARE. | 22 |
| CONCLUSION | 27 |

TABLE OF AUTHORITIES

| | Page |
|---|-------------------|
| Cases | |
| <i>Aristotle P. v. Johnson</i> , 721 F. Supp. 1002 (N.D. Ill. 1989) | 10, 11, 14-15, 24 |
| <i>Bd. of Dirs. of Rotary Int’l v. Rotary Club</i> , 481 U.S. 537 (1987) | 7, 9, 13 |
| <i>Carey v. Population Servs. Int’l</i> , 431 U.S. 678 (1977) | 7 |
| <i>Cnty. of L.A. v. Superior Court</i> , 102 Cal. App. 4th 627 (2002)..... | 20 |
| <i>Garcia-Mejia v. Gilkey</i> , No. 1:07-cv-00783-LJO-GSA (PC), 2009 WL 80411 (E.D. Cal. Jan. 13, 2009) | 12-13 |
| <i>Henry A. v. Willden</i> , 678 F.3d 991 (9th Cir. 2012)..... | 24 |
| <i>In re Adoption of Anthony</i> , 113 Misc. 2d 26 (N.Y. Fam. Ct. 1982)..... | 17 |
| <i>In re Clifton B.</i> , 81 Cal. App. 4th 415 (2000)..... | 17 |
| <i>In re Valerie A.</i> , 152 Cal. App. 4th 987 (2007)..... | 20 |
| <i>Jesse E. v. N.Y.C. Dep’t of Soc. Servs.</i> , No. 1:90-07274 (S.D.N.Y. Nov. 3, 1990) | 11 |
| <i>Kaur v. City of Lodi</i> , No. 2:14-cv-828-GEB-AC, 2014 WL 3889976 (E.D. Cal. Aug. 7, 2014)..... | 12 |
| <i>Keates v. Koile</i> , 883 F.3d 1228 (9th Cir. 2018)..... | 9 |
| <i>K.H. ex rel. Murphy v. Morgan</i> , 914 F.2d 846 (7th Cir. 1990)..... | 24 |

Lee v. City of L.A.,
250 F.3d 668 (9th Cir. 2001).....9

Mann v. City of Sacramento,
No. 17-17048, 2018 WL 4268534 (9th Cir. Sept. 7, 2018).....11, 12, 13, 14

Marisol A. v. Giuliani,
929 F. Supp. 662 (S.D.N.Y. 1996).....24

Moore v. City of E. Cleveland,
431 U.S. 494 (1977)7, 8

New York ex rel. Sibley v. Sheppard,
429 N.E.2d 1049 (N.Y. 1981)17

Pierce v. Soc’y of Sisters of the Holy Names of Jesus and Mary,
268 U.S. 510 (1925)7

R.G. v. Koller,
415 F. Supp. 2d 1129 (D. Haw. 2006)24

Roberts v. United States Jaycees,
468 U.S. 609 (1984)8, 9, 11, 13

Smith v. Org. of Foster Families for Equal. & Reform,
431 U.S. 816 (1977)8

Tamas v. Dep’t of Social & Health Servs.,
630 F.3d 833 (9th Cir. 2010).....24

Trujillo v. Bd. of Cnty. Comm’rs of Cnty. of Santa Fe,
768 F.2d 1186 (10th Cir. 1985).....9

Ward v. City of San Jose,
967 F.2d 280 (9th Cir. 1991).....11, 12, 13, 14

Zablocki v. Redhail,
434 U.S. 374 (1978)7

Federal Rules

Fed. R. App. P. 26i
 Fed. R. App. P. 29 1

Statutes

42 U.S.C.
 § 671(a)(31).....15, 16

Cal. Welf. & Inst. Code

 § 290.1(a)(5).....20
 § 358.1(d)(1)-(2).....18, 19
 § 366(a)(1)(D)19
 § 366.1(g)(1)(A)..... 18-19
 § 366.21(e)(4).....19
 § 366.2920
 § 366.3(e)(9).....19
 § 16001.9(a)(7).....20
 § 16002(a)-(b).....18, 20
 § 16501.1(g)(6).....20

Other Authorities

Alexandra Cook et. al., *Complex Trauma in Children and Adolescents*,
 35 PSYCHIATRIC ANNALS 390 (2005)25

Assem. Floor Analysis, 3d reading of Assem. Bill No. 705 (2000-2001 Reg. Sess.)
 as amended May 7, 2001,
 http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020AB705#21

Bruce Perry et al., *Childhood Trauma, the Neurobiology of Adaptation, and “Use-dependent” Development of the Brain: How “States” Become “Traits”*,
 16 INFANT MENTAL HEALTH J. 271 (1995)..... 24-25

Cal. Dep’t Soc. Servs., ACL 15-100 (Jan. 14, 2016), *Changes in Sibling Visitation for Children in the Dependency and Juvenile Justice System with the Passage of Senate Bill (SB) 1099*,
 <http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2015/15-100.pdf>
 19-20

Children’s Bureau, *Sibling Issues in Foster Care and Adoption* (Jan. 2013)
<https://www.childwelfare.gov/pubpdfs/siblingissues.pdf> 17-18, 22, 25

Children’s Bureau, *Placement of Children with Relatives: State Statutes* (Jan. 2018)
<https://www.childwelfare.gov/pubPDFs/placement.pdf> 16

Children’s Rights, *Class Actions: CT – Juan F. v. Malloy*,
https://www.childrensrights.org/class_action/connecticut/ 16-17

Children’s Rights, *Class Actions: MI – Dwayne B. v. Snyder*,
https://www.childrensrights.org/class_action/michigan/ 16-17

Children’s Rights, *Class Actions: TN – Brian A. v. Haslam*,
https://www.childrensrights.org/class_action/tennessee/ 17

Columbia Legal Services, *Braam v. Washington*,
<http://columbialegal.org/BraamV.Washington> 17

Consent Decree, *Aristotle P. v. Ryder*, No. 88-C-7919 (N.D. Ill., May 16, 2014),
<https://www.clearinghouse.net/chDocs/public/CW-IL-0006-0006.pdf>. 11

David M. Rubin et al., *The Impact of Placement Stability on Behavioral Well-being for Children in Foster Care*,
 119 PEDIATRICS 336 (2007)..... 23

Krista Gass, Jennifer Jenkins & Judy Dunn, *Are Sibling Relationships Protective? A Longitudinal Study*,
 48 J. CHILD PSYCHOL. & PSYCHIATRY 167 (2007) 26

Mark Courtney et al., *Youth Who Run Away from Out-of-Home Care*,
 Chapin Hall (2005), <https://www.chapinhall.org/research/youth-who-run-away-from-out-of-home-care/> 26

Mark D. Simms, *Foster Children and the Foster Care System, Part II: Impact on the Child*,
 27 CURRENT PROBS. PEDIATRICS 345 (1991) 23

Mary Anne Herrick & Wendy Piccus, *Sibling Connections: The Importance of Nurturing Sibling Bonds in the Foster Care System*,
 27 CHILDREN & YOUTH SERVS. REV. 845 (2005)..... 22, 26

Melissa S. Kittmer, *Risk and Resilience in Alcoholic Families: Family Functioning, Sibling Attachment, and Parent-Child Relationships* (ProQuest Information & Learning ed., 2005) 25-26

National Child Traumatic Stress Network, *Children with Traumatic Separation: Information for Professionals*, <https://www.nctsn.org/resources/children-traumatic-separation-information-professionals>23

National Child Traumatic Stress Network, *Effects of Complex Trauma*, <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects>25

Randi Mandelbaum, *Delicate Balances: Assessing the Needs and Rights of Siblings in Foster Care to Maintain Their Relationships Post-Adoption*, 41 N.M. L. REV. 1 (2011)16

Rosalind D. Folman, “*I Was Taken*”: *How Children Experience Removal from Their Parents Preliminary to Placement into Foster Care*, 2 ADOPTION Q. 7 (1998).....23

Sen. Floor Analyses, 3d reading of Assem. Bill No. 705 (2000-2001 Reg. Sess.) as amended August 28, 2011, http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020AB705#21

Sonya J. Leathers, *Separation from Siblings: Associations with Placement Adaptation and Outcomes Among Adolescents in Long-Term Foster Care*, 27 CHILDREN & YOUTH SERVS. REV. 793 (2005).....26

U.S. Dep’t of Health and Human Servs., Administration for Children and Families, *Results of the 2007 and 2008 Child and Family Services Reviews* (June 1, 2012), <https://www.acf.hhs.gov/archive/cb/resource/07-08-cfsr-results>..... 15

U.S. Dep’t of Health and Human Servs., Administration for Children and Families, *Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008* (July 9, 2010), www.acf.hhs.gov/sites/default/files/cb/pi1011.pdf..... 16

Victor G. Carrion & Shane S. Wong, *Can Traumatic Stress Alter the Brain? Understanding the Implications of Early Trauma on Brain Development and Learning*,
51 J. ADOLESC. HEALTH S23 (2012).....25

William W. Patton & Dr. Sarah Latz, *Severing Hansel from Gretel: An Analysis of Siblings' Association Rights*,
48 U. MIAMI L. REV. 745 (1994).....22

STATEMENT OF INTEREST OF *AMICI CURIAE*

Pursuant to Federal Rule of Appellate Procedure 29(a), non-profit legal and youth advocacy organizations the National Center for Youth Law, Advokids, Bay Area Legal Aid, Children’s Rights, East Bay Children’s Law Offices, Juvenile Law Center, Legal Services for Children, National Association of Counsel for Children, and Youth Law Center (“Amici”) respectfully submit this brief in support of Plaintiffs-Appellees.

The **National Center for Youth Law** (“NCYL”) is a private, non-profit organization that uses the law to help children in need nationwide. For more than forty years, NCYL has worked to improve the federal, state, and local systems responsible for protecting children, including the child welfare, juvenile justice, health and mental health, and public benefits systems. As part of the organization’s child welfare advocacy, NCYL works to ensure the safety, stability, and well-being of abused and neglected children. NCYL provides representation to children and youth in cases that have a broad impact and has represented many children in litigation to ensure their access to safe child welfare systems.

Advokids is a 501(c)(3) non-profit organization that advocates for the child welfare system to actually provide the legal rights and protections to which every California foster child is entitled under law. Formed in 1992, Advokids operates a number of statewide programs to promote the well-being of California foster children, to advocate for protecting them from the additional traumas often

inflicted upon foster children by the child welfare system, and to provide training and information to child advocates. Advokids' programs include a telephone hotline, website, MCLE programs, and educational programs for child advocates on child welfare law, social science and neuroscience research on child development, and how this research should inform the juvenile courts' decisions.

Bay Area Legal Aid ("Bay Legal") is the largest provider of free legal services to low-income residents of the Bay Area. Bay Legal's Youth Justice Project ("Project") provides full-scope civil legal representation for youth, focusing on homeless youth involved in the delinquency or dependency systems. The Project operates multiple legal clinics for youth in the Bay Area. Since the Project was started in 2007, its attorneys and social workers have worked with and advocated for thousands of youth, a majority of whom were placed out of their homes due to abuse or neglect. The Project's policy work focuses on building support for kinship placement resources and ensuring that children are able to remain close to family, extended family, and non-relative familial supports.

Children's Rights is a national advocacy organization dedicated to improving the lives of vulnerable children in government systems. Children's Rights has a twenty-year track record of using civil rights litigation, policy expertise, and public education to keep children in state care safe and healthy. Children's Rights has long advocated for the recognition of a child's right to remain connected to siblings while in foster care, recognizing that, for the great

majority of children, separation from siblings inflicts emotional and psychological harm and compounds the trauma of being placed in foster care in the first place.

East Bay Children’s Law Offices (“EBCLO”) holistically represents children and youth at every juvenile dependency proceeding in Alameda County. Our mission is to protect and defend the rights of children and youth through effective, vigorous, and compassionate legal advocacy. The foster care system designed to protect children often adds another layer of trauma to their lives. Foster youth are more likely to be diagnosed with mental illness, less likely to graduate from high school, and more likely to enter the criminal justice system. EBCLO strives to disrupt those patterns by providing a voice for children in and out of court. We identify and request services for our clients, including advocating for their educational, developmental, physical, and mental health needs.

Juvenile Law Center advocates for rights, dignity, equity, and opportunity for youth in the child welfare and justice systems through litigation, appellate advocacy and submission of amicus briefs, policy reform, public education, training, consulting, and strategic communications. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children’s unique developmental characteristics, and reflective of international human rights values. Juvenile Law Center has represented hundreds

of young people and filed influential amicus briefs in state and federal cases across the country.

Founded in 1975, **Legal Services for Children** (“LSC”) is one of the first non-profit law firms in the country dedicated to advancing the rights of youth. LSC’s mission is to ensure that all children in the Bay Area have an opportunity to be raised in a safe and stable environment with equal access to the services they need to become healthy and productive young adults. We provide holistic advocacy through teams of attorneys and social workers in the areas of abuse and neglect, immigration, and education. We empower clients by actively involving them in critical decisions about their lives. LSC regularly represents abused and neglected children in child protection proceedings and believes children have a fundamental right to sibling relationships.

The **National Association of Counsel for Children**, founded in 1977, is a 501(c)(3) non-profit child advocacy and professional membership association dedicated to enhancing the well-being of America’s children. The NACC works to strengthen legal advocacy for children and families by promoting well resourced, high quality legal advocacy; implementing best practices; advancing systemic improvement in child serving agencies, institutions, and court systems; and promoting a safe and nurturing childhood through legal and policy advocacy. NACC programs include training, technical assistance, the national children’s law resource center, the attorney specialty certification program, policy advocacy, and

the amicus curiae program. The NACC has filed numerous briefs involving the legal interests of children and families in state and federal appellate courts and the Supreme Court.

Youth Law Center is a San Francisco-based public interest law firm that advocates nationally to transform child welfare and juvenile justice systems so young people can thrive. For more than forty years, Youth Law Center has worked to protect children and youth in out-of-home care from harmful practices and ensure that they receive the care, services, and supports they need to grow to their potential. Youth Law Center attorneys have represented children and youth in civil rights litigation and participated as amicus curiae in cases in more than two dozen states on foster care and juvenile justice issues. Youth Law Center's advocacy has resulted in extensive improvements in child and youth serving systems affecting the lives of hundreds of thousands of young people throughout the country.

Amici submit this brief to offer their unique perspective based on substantial experience in legal advocacy for individual children, youth, and families, and in legal and policy advocacy at a systemic level. All parties to the action have consented to the filing of this brief.

No party or counsel for a party has authored this brief in whole or in part, or made any monetary contribution to fund the preparation or submission of this brief. No person other than amici curiae or their counsel made a monetary contribution to the preparation or submission of this brief.

INTRODUCTION

The U.S. Supreme Court has afforded First Amendment protection to “the sanctity of the family” and emphasized the importance of “the emotional attachments that derive from the intimacy of daily association.” Supreme Court case law instructs that when evaluating First Amendment association rights, courts must carefully assess relationships on a “spectrum” of intimacy based on their “objective characteristics.” Plaintiff J.P. and his sister M.M. shared just the sort of intimate relationship that the First Amendment protects. As biological siblings growing up in the same home, they shared an emotional attachment from spending their entire lives under the same roof. According to social science research, this attachment was likely heightened when they were removed from their home and community due to allegations of maltreatment and placed together in a foster home, becoming each other’s only family and only connection to normalcy.

Notwithstanding clear Supreme Court precedent protecting such intimate relationships, Defendants seek a sweeping ruling from this Circuit extinguishing all First Amendment protections for all siblings, including cohabitating siblings in foster care. Such a ruling would run counter to Ninth Circuit law, federal and California statutory law, California public policy, and well-established social science research emphasizing the significance of sibling relationships as a means of promoting stability and improved outcomes for youth in foster care.

ARGUMENT

I. The U.S. Constitution protects the sibling relationships of youth in foster care.

A. U.S. Supreme Court precedent clearly establishes the importance of familial relationships.

The United States Supreme Court has recognized that “the freedom to enter into and carry on certain intimate or private relationships is a fundamental element of liberty protected by the Bill of Rights.” *Bd. of Dirs. of Rotary Int’l. v. Rotary Club*, 481 U.S. 537, 545 (1987).

The Court has afforded constitutional protection to many different types of familial relationships, including: cohabitation with relatives, *Moore v. City of E. Cleveland*, 431 U.S. 494, 503-04 (1977); child rearing and education, *Pierce v. Soc’y of Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 534-35 (1925); the begetting and bearing of children, *Carey v. Population Servs. Int’l*, 431 U.S. 678, 684-86 (1977); and marriage, *Zablocki v. Redhail*, 434 U.S. 374, 383-86 (1978).

In *Moore*, the Court emphasized that the Constitution “protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation’s history and tradition” and “[i]t is through the family that we inculcate and pass down many of our most cherished values, moral and cultural.” 431 U.S. at 503-04. The Court did not limit this fundamental right to parents, stating “[o]urs is by no means a tradition limited to respect for the bonds uniting the members of the

nuclear family.” *Id.* at 504. The Court has noted that the importance of the familial relationship derives in part from “the emotional attachments that derive from the intimacy of daily association.” *Smith v. Org. of Foster Families for Equal. & Reform*, 431 U.S. 816, 844 (1977).

B. Federal court precedent also clearly establishes a First Amendment right to familial association.

The Supreme Court has identified two separate forms of constitutionally protected associational rights within the First Amendment: freedom of “intimate association” and freedom of “expressive association.” *Roberts v. United States Jaycees*, 468 U.S. 609, 617-18 (1984). In *Roberts*, the Court indicated that protecting intimate relationships “from unwarranted state interference” was necessary to safeguard “the ability independently to define one’s identity that is central to any concept of liberty.” *Id.* at 619. The Court defined constitutionally protected intimate relationships to include those “personal bonds [that] have played a critical role in the culture and traditions of the Nation by cultivating and transmitting shared ideals and beliefs.” *Id.* at 618-19.

In identifying the personal affiliations that may be entitled to constitutional protection, the Court pointed to “those that attend the creation and sustenance of a family—marriage . . . the raising and education of children . . . and cohabitation with one’s relatives.” *Id.* at 619 (internal citation omitted). The Court emphasized that the First Amendment protects relationships, including family relationships,

that “by their nature, involve deep attachments and commitments to the necessarily few other individuals with whom one shares not only a special community of thoughts, experiences, and beliefs but also distinctively personal aspects of one’s life.” *Id.* at 619-20; *see also Rotary Club*, 481 U.S. at 545.

Noting the broad range of relationships that could merit protection, the Court has stated that determining the limits of state authority requires “a careful assessment of where that relationship’s objective characteristics locate it on a spectrum from the most intimate to the most attenuated of personal attachments.” *Roberts*, 468 U.S. at 620. Generally, only relationships that are distinguished by attributes such as “relative smallness, a high degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship” are likely to be protected under the First Amendment. *Id.*; *see also Trujillo v. Bd. of Cnty. Comm’rs of Cnty. of Santa Fe*, 768 F.2d 1186, 1189 n.5 (10th Cir. 1985) (the siblings’ “relationships at issue clearly fall within the protected range” established in *Roberts*).

The Ninth Circuit has similarly held that the First Amendment protects familial relationships. In *Keates v. Koile*, the Ninth Circuit acknowledged that “claims under both the First and Fourteenth Amendment for unwarranted interference with the right to familial association could survive a motion to dismiss.” 883 F.3d 1228, 1236 (9th Cir. 2018) (citing *Lee v. City of L.A.*, 250 F.3d

668, 686 (9th Cir. 2001) (finding that plaintiff had adequately alleged a violation of the right to familial association under the First and Fourteenth Amendments)).

In considering the constitutional status of sibling relationships, a federal district court found that the First Amendment right to intimate association protects the sibling relationships of foster youth. In *Aristotle P. v. Johnson*, foster children under the guardianship of the Illinois Department of Children and Family Services (“DCFS”) brought a class action suit against the director of DCFS and the guardianship administrator, challenging the defendants’ practices of placing siblings in separate foster homes and failing to provide visits on a reasonable basis. 721 F. Supp. 1002 (N.D. Ill. 1989).

In ruling on defendants’ motion to dismiss, the district court in *Aristotle P.* found that plaintiffs had stated a Section 1983 claim for violation of their First Amendment and substantive due process rights. *Id.* at 1006-07, 1009-10. The court noted that the child welfare agency’s policies resulted in the physical separation of the plaintiffs and their siblings for extended periods of time, and in some cases the children were unable to maintain any relationship at all. *Id.* at 1007-08. Therefore, the court concluded that as “the defendants’ policies have seriously damaged, if not severed, the relationships between the plaintiffs and their siblings . . . [t]he plaintiffs have sufficiently alleged the existence of a policy which deprives their liberty interests in their sibling relationships” *Id.* at 1008.

Notably, the court emphasized sibling relationships as just “the sort of ‘intimate human relationships’ that are afforded ‘a substantial measure of sanctuary from unjustified interference by the State.’” *Id.* at 1005 (citing to *Roberts*, 468 U.S. at 618).¹

C. *Ward* and *Mann* do not limit the Plaintiff’s First Amendment right to familial association.

Defendants misconstrue the relevance of the Ninth Circuit’s decisions in *Ward v. City of San Jose*, 967 F.2d 280 (9th Cir. 1991) and *Mann v. City of Sacramento*, No. 17-17048, 2018 WL 4268534 (9th Cir. Sept. 7, 2018) to Plaintiff J.P.’s First Amendment right to familial association. *See* Brief of Appellants-Defendants, ECF No. 8 (“Appellants’ Br.”), at 31-32 (stating that *Mann* “[found] that *Ward* barred the plaintiffs’ First Amendment sibling association claims to the same extent it barred their Fourteenth Amendment sibling association claims”).

¹ Subsequently, the parties entered into a consent decree, providing for placement of siblings together when possible, visitation and other contacts among siblings placed apart, training of caseworkers, and monitoring and data collection. *See* Consent Decree, *Aristotle P. v. Ryder*, No. 88-C-7919 (N.D. Ill., May 16, 2014), <https://www.clearinghouse.net/chDocs/public/CW-IL-0006-0006.pdf>. Advocates reached a similar settlement in *Jesse E. v. N.Y.C. Dep’t of Soc. Servs.*, No. 1:90-cv-07274-RJW (S.D.N.Y. Nov. 3, 1990), which challenged the practice of separating siblings in foster care as violative of children’s freedom of association under the First Amendment, their right to due process, and other statutory rights. The 1993 settlement established siblings’ right to be placed together unless contrary to their health, safety, or welfare, and rights to visitation and reunification if children had to be separated temporarily.

The facts of these cases involving adult siblings who were neither cohabitating nor subject to the *parens patriae* protections of the state are clearly distinguishable.

In *Ward*, the parents and adult siblings of a man shot and killed by police officers brought civil rights and wrongful death actions against the City of San Jose, the police chief, and the officers involved. 967 F.2d at 282. The Ninth Circuit dismissed the siblings' claims, holding that they did not possess a liberty interest in their sibling's companionship under the Fourteenth Amendment's substantive due process clause. *Id.* at 284. As the plaintiffs did not assert a claim for violation of their First Amendment right to familial association, the court's opinion did not address the First Amendment. *See id.* In *Mann*, the Ninth Circuit clarified the holding in *Ward*, stating that "this court held that *adult, non-cohabitating siblings* 'do not possess a cognizable liberty interest in their brother's companionship.'" *See* 2018 WL 4268534, at *2 (quoting *Ward*, 967 F.2d 280, 283-284) (emphasis added).

Multiple district courts in California have indicated that *Ward*'s Fourteenth Amendment analysis does not limit the right to familial association under the First Amendment.² Contrary to Appellants' assertions, *Mann* does not extend *Ward* to

² The District Court referenced several of these decisions in its Order Granting in Part and Denying in Part County Defendants' Motion to Dismiss. *See, e.g.*, ER 10 ("*Kaur v. City of Lodi*, No 2:14-cv-828-GEB-AC, 2014 WL 3889976, at *7 (E.D. Cal. Aug. 7, 2014) (declining to apply *Ward* to preclude siblings from pursuing claims for violation of association under the First Amendment)"); ER 12 ("*Garcia-Mejia v. Gilkey*, No. 1:07-cv-00783-LJO-GSA (PC), 2009 WL 80411, at *3-4

bar siblings' First Amendment rights to familial association. *See* Appellants' Br. 31-32.

In *Mann*, the adult siblings of a man shot and killed by police officers brought a civil rights action against the City of Sacramento and the police officers involved. 2018 WL 4268534, at *1. In considering the siblings' claim, the court noted that "relationships involving marriage, child-rearing, or cohabitation are protected by the First Amendment, and other relationships, 'including family relationships,' may also be protected to the extent that the 'objective characteristics' of the relationship (i.e., 'factors such as size, purpose, selectivity, and ... exclu[sivity]') demonstrate that it is 'sufficiently personal or private to warrant constitutional protection.'" *Id.* at *2 (quoting *Rotary Club*, 481 U.S. at 545-46) (alteration in original). However, the Ninth Circuit held that plaintiffs' "conclusory and formulaic recitation of language from *Rotary Club*" was insufficient to show that they shared an intimate association right protected under the First or Fourteenth Amendment. *Id.* (internal citations omitted). The court also noted that even if sufficient facts had been plead, "*Ward* necessarily rejected any argument that *adult, non-cohabitating siblings* enjoy a right to intimate association." *Id.* (emphasis added).

(E.D. Cal. Jan. 13, 2009) (citing *Board of Directors* and *Roberts* and concluding "[p]laintiff has a fundamental liberty interest in his relationship with his brother").

D. The objective characteristics of the sibling relationship between J.P. and M.M. strongly support an intimate association right.

The facts of this case are not in dispute. J.P., five years old, and M.M., three years old, were biological siblings removed from their biological mother's custody due to allegations of neglect and abuse. Complaint ¶ 19, ER 171; Appellants' Br. 5. J.P. and M.M. were then placed into the care of Defendant Moore. Complaint ¶ 28, ER 172-73. J.P. and M.M. lived together in Moore's care from September 30, 2015, to October 16, 2015. *Id.* On October 16, 2015, after ingesting methamphetamine for the second time, M.M. died in her brother's arms. Complaint ¶ 67, ER 180.

Far from the insufficient "formulaic recitation of language" in *Mann*, Plaintiff J.P. has demonstrated that he cohabitated with his biological sibling M.M. for an extended period of time. Unlike the adult, non-cohabitating siblings in *Ward* and *Mann*, J.P. and M.M. are minor siblings who had cohabitated for their entire lives at the time of M.M.'s death, and could expect to live together for years in the future. These facts alone demonstrate the kind of "intimate relationship" that the First Amendment protects. But, as discussed in more detail below, the additional intimacy resulting from the unique bond siblings in foster care experience must also be taken into consideration in distinguishing *Mann* from the facts of this case. *See infra* Section III; *see also Aristotle P.*, 721 F. Supp. at 1006 (noting that foster

children’s “relationships with their siblings are even more important because their relationships with their biological parents are often tenuous or non-existent.”)

II. Federal and California legislation have emphasized the importance of foster youth sibling relationships for decades.

A. Federal law requires state child welfare agencies to prioritize the sibling relationships of youth in foster care.

Two areas of federal law safeguard the sibling relationships of foster youth. In 2004, the Children’s Bureau of the Administration for Children and Families began considering “placement with siblings” and “visiting . . . siblings in foster care” as two indicators by which to evaluate the states’ efforts toward achieving permanency for foster children. U.S. Dep’t of Health & Human Servs., Administration for Children and Families, *Results of the 2007 and 2008 Child and Family Services Reviews* (June 1, 2012), <https://www.acf.hhs.gov/archive/cb/resource/07-08-cfsr-results>. States have therefore been required to assess their efforts at maintaining sibling relationships for nearly fifteen years.

In 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act, P.L. 110-351 (“Fostering Connections Act”). The Act sent a clear and powerful message to states about their systemic obligations to support sibling relationships in foster care. The law requires that, in order to receive federal funding, states must make “reasonable efforts” (1) to place siblings removed from their home together and (2) to provide for frequent visitation or

other ongoing interaction between siblings not jointly placed, unless a state documents that such placement, visitation, or ongoing interaction would be contrary to the safety or well-being of any of the siblings. 42 U.S.C. § 671(a)(31) (2008); *see also* U.S. Dep't of Health and Human Servs., Administration for Children and Families, *Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008* (July 9, 2010), at 22, www.acf.hhs.gov/sites/default/files/cb/pi1011.pdf (reiterating requirements).

The vast majority of states now have statutes, regulations, or policies prioritizing joint placement of siblings in foster care. Children's Bureau, *Placement of Children with Relatives: State Statutes* (Jan. 2018), at 3, <https://www.childwelfare.gov/pubPDFs/placement.pdf>. In accordance with the Fostering Connections Act, numerous states also have statutes requiring the child welfare agency to make reasonable efforts to ensure that foster youth who cannot be placed together have frequent visitation or other ongoing interaction. *Id.* at 3-4. States have also focused on strengthening post-adoption sibling visitation laws and including sibling visitation in foster youth bill of rights provisions. *See* Randi Mandelbaum, *Delicate Balances: Assessing the Needs and Rights of Siblings in Foster Care to Maintain Their Relationships Post-Adoption*, 41 N.M. L. REV. 1, 11-12, 14-15, 22-23 (2011).³ State court decisions addressing the rights of foster

³ States have also recognized the importance of improving their outcomes relating to siblings in foster care. Notably, consent decrees under the continuing

youth to maintain connections with siblings who are also in state custody have frequently been sympathetic to the interests of foster youth.⁴

B. California law requires child welfare agencies to preserve and protect the sibling relationships of youth in foster care.

The state of California has focused on the needs of siblings in foster care for nearly three decades. California first enacted legislation focusing on sibling rights and visitation in 1993 and has since expanded these rights and protections on multiple occasions. Children’s Bureau, *Sibling Issues in Foster Care and Adoption* (Jan. 2013), at 3, <https://www.childwelfare.gov/pubpdfs/siblingissues.pdf>.

California law is “recognized by many as offering the strongest statutory

jurisdiction of federal courts in Connecticut, Georgia, Michigan, Mississippi, New Jersey, and South Carolina require those states to improve outcomes relating to sibling placement and/or visitation. *See, e.g.*, Children’s Rights, *Class Actions: CT – Juan F. v. Malloy*, https://www.childrensrights.org/class_action/connecticut/; Children’s Rights, *Class Actions: MI – Dwayne B. v. Snyder*, https://www.childrensrights.org/class_action/michigan/. Sibling outcomes have similarly been featured in consent decrees in Washington and Tennessee. *See* Columbia Legal Services, *Braam v. Washington*, <http://columbialegal.org/BraamV.Washington>; Children’s Rights, *Class Actions: TN – Brian A. v. Haslam*, https://www.childrensrights.org/class_action/tennessee/.⁴ *See, e.g.*, *In re Clifton B.*, 81 Cal. App. 4th 415, 427 (2000) (finding that the “Agency may not suspend sibling visitation unless the court finds such interaction would be detrimental to either sibling . . .”); *New York ex rel. Sibley v. Sheppard*, 429 N.E.2d 1049 (N.Y. 1981) (holding that a family court could order visitation between siblings to protect the children’s best interests, despite opposition by adoptive parents); *In re Adoption of Anthony*, 113 Misc. 2d 26 (N.Y. Fam. Ct. 1982) (allowing a twelve-year-old boy to maintain contact with his siblings after his adoption by foster parents).

protections for the needs of siblings in foster care and adoption among existing State statutes.” *Id.*

California Welfare and Institutions Code Section 16002 requires California child welfare agencies to place siblings together unless the placement would be contrary to the “safety and well-being” of any sibling. Cal. Welf. & Inst. Code § 16002(b). This sibling placement requirement reflects “the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child’s family ties” Cal. Welf. & Inst. Code § 16002(a)(1). Child welfare agencies are also required to make a “diligent effort . . . to develop and maintain sibling relationships.” Cal. Welf. & Inst. Code § 16002(b). If siblings are not placed together, the social worker “shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings.” *Id.* The social worker is required to prepare a case plan “to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child.” *Id.*

Social workers are also required to include detailed information about sibling relationships in every social study, evaluation, and supplemental report that is submitted to the court. *See* Cal. Welf. & Inst. Code § 358.1(d)(1)-(2) (Social Study or Evaluation Report); Cal. Welf. & Inst. Code § 366.1(g)(1)(A)

(Supplemental Report). These reports must include a factual discussion of, inter alia: “[t]he nature of the relationship between the child and his or her siblings;” “[t]he appropriateness of developing or maintaining the sibling relationships;” “[t]he impact of the sibling relationships on the child’s placement and planning for legal permanence;” and, for siblings not placed together, an explanation of why, what efforts are being made to place them together (or why such efforts are not appropriate), and details about sibling visits. Cal. Welf. & Inst. Code § 358.1(d)(1). The reports must specifically address “whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child’s best emotional interest.” Cal. Welf. & Inst. Code § 358.1(d)(2).

The social study or evaluation report discussing sibling relationships must be received in evidence and considered before the dependency court may render a disposition decision. Additionally, the social worker must update the report in advance of all subsequent review hearings. *See* Cal. Welf. & Inst. Code § 366(a)(1)(D) (Periodic Status Review); Cal. Welf. & Inst. Code § 366.21(e)(4) (Status Review Hearing); Cal. Welf. & Inst. Code § 366.3(e)(9) (Permanency Review). The California Department of Social Services issued an All County Letter to all child welfare agencies regarding these requirements in 2016. Cal. Dep’t Soc. Servs., ACL 15-100 (Jan. 14, 2016), *Changes in Sibling Visitation for*

Children in the Dependency and Juvenile Justice System with the Passage of Senate Bill (SB) 1099,

<http://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2015/15-100.pdf>.

The importance of sibling relationships is also reflected elsewhere in California statutes. Child welfare agencies are required to give siblings notice of hearings in each other's cases. Cal. Welf. & Inst. Code § 290.1(a)(5). When siblings are not placed together, their social workers are required to ensure that the "siblings are informed of significant life events that occur within their extended family." Cal. Welf. & Inst. Code § 16501.1(g)(6). If a child in foster care is placed for adoption, the court may include provisions for post-adoptive sibling contact in their final adoption order. Cal. Welf. & Inst. Code § 366.29. Finally, the California Foster Youth Bill of Rights includes a right "to visit and contact brothers and sisters." Cal. Welf. & Inst. Code § 16001.9(a)(7). California state courts have acknowledged the importance of sibling relationships in decisions interpreting these statutes.⁵

⁵ See, e.g., *In re Valerie A.*, 152 Cal. App. 4th 987, 1003 (2007) ("[M]aintaining sibling relationships, under the right circumstances, is imperative for the emotional well-being of the [dependent] child now and in the future. For children who will never be returned to their parents, siblings may be the only true family they will ever have.") (quoting Sen. Comm. on Judiciary, Rep. on Assem. Bill No. 705 (2000–2001 Reg. Sess.) as amended June 11, 2001, at 4) (alteration in original); *Cnty. of L.A. v. Superior Court*, 102 Cal. App. 4th 627, 642 (2002) (finding that the purpose of sibling placement under Welfare and Institutions Code § 16002 is to "preserve familial relationships").

The legislative history of these provisions recognizes the important role that sibling relationships play in the lives of foster youth. One legislative analysis commented that “when children have been separated from their parents due to abuse and neglect, sibling relationships become even more important to them. Academics and children’s advocates agree that maintaining sibling relationships can be critically important to the emotional well-being of these children whose lives and trust have been shattered” Assem. Floor Analysis, 3d reading of Assem. Bill No. 705 (2000-2001 Reg. Sess.) as amended May 7, 2001, at 3, http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020AB705#. Another legislative analysis stated that “[m]aintaining sibling relationships is particularly important to children who have already lost their homes, their parents, changed schools and lost contact with their friends. Siblings are the only family, the last link to normalcy, that these children have left.” Sen. Floor Analyses, 3d reading of Assem. Bill No. 705 (2000-2001 Reg. Sess.) as amended August 28, 2001, at 5, http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200120020AB705#.

Defendant social workers Maas and May were subject to a myriad of state-mandated requirements regarding the preservation and protection of J.P. and M.M.’s sibling relationship. As social workers working with foster youth in California, Maas and May are required to include detailed information about their

minor clients' sibling relationships in every single social study, evaluation, and supplemental report that they submit to the dependency court.

III. Social science research has demonstrated the extraordinary importance of sibling relationships for youth in foster care.

Sibling relationships provide emotional support, stability, and a sense of belonging. Leading researchers have noted that sibling relationships “validate the child’s fundamental worth as a human being . . . [and] produce hope and motivation.” Mary Anne Herrick & Wendy Piccus, *Sibling Connections: The Importance of Nurturing Sibling Bonds in the Foster Care System*, 27 CHILDREN & YOUTH SERVS. REV. 845, 851 (2005). Siblings also play an important role in advancing each other’s identity, self-esteem, and moral and social development. See William W. Patton & Dr. Sarah Latz, *Severing Hansel from Gretel: An Analysis of Siblings’ Association Rights*, 48 U. MIAMI L. REV. 745, 766-67 (1994). Sibling relationships are “emotionally powerful and critically important not only in childhood but over the course of a lifetime. . . . [They] can provide a significant source of continuity throughout a child’s lifetime and are likely to be the longest relationships that most people experience.” Children’s Bureau, *Sibling Issues in Foster Care and Adoption* (Jan. 2013), at 4, <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>.

Children entering foster care must cope with the trauma that resulted in their entry into care as well as the pain and stress caused by separation from their

families. See National Child Traumatic Stress Network, *Children with Traumatic Separation: Information for Professionals*, https://www.nctsn.org/sites/default/files/resources/children_with_traumatic_separation_professionals.pdf; Rosalind D. Folman, “*I Was Taken*”: *How Children Experience Removal from Their Parents Preliminary to Placement into Foster Care*, 2 ADOPTION Q. 7 (1998). While foster care should be a safe haven for abused and neglected children, all too often foster children experience additional emotional, psychological, developmental, and neurological harm as a result of their experiences in the system, including unsafe placements and multiple placement changes. See, e.g., Mark D. Simms, *Foster Children and the Foster Care System, Part II: Impact on the Child*, 21 CURRENT PROBS. PEDIATRICS 345 (1991); David M. Rubin et al., *The Impact of Placement Stability on Behavioral Well-being for Children in Foster Care*, 119 PEDIATRICS 336 (2007).

J.P.’s treatment in the foster care system shocks the conscience and exemplifies systemic failure at its most extreme, including: placement of five-year-old J.P. in a foster home where he faced a significant risk of harm from exposure to methamphetamines; the traumatizing experience of watching his little sister suffer an extreme reaction from ingesting methamphetamines; the ongoing significant risk of harm from being forced to live in the same unsafe home where his sister ingested methamphetamines; and, finally, the devastating trauma of watching his

sister suffer a second time from ingesting methamphetamines and then die in his arms. A more traumatic and harmful series of events is difficult to fathom.⁶

Decades of medical research have established that traumatic experiences impact children's brain development. See Bruce D. Perry et al., *Childhood Trauma, the Neurobiology of Adaptation, and "Use-dependent" Development of the Brain: How "States" Become "Traits"*, 16 INFANT MENTAL HEALTH J. 271, 276 (1995) ("[T]he organizing, sensitive brain of an infant or young child is more malleable to experience than a mature brain. Although experience may alter the

⁶ Although this brief focuses on J.P.'s First Amendment rights, amici note that J.P. easily demonstrates an actionable claim for violation of his Fourteenth Amendment substantive due process rights. "[O]nce the state assumes wardship of a child, the state owes the child, as part of that person's protected liberty interest, reasonable safety and minimally adequate care and treatment appropriate to the age and circumstances of the child." *Henry A. v. Willden*, 678 F.3d 991, 1000 (9th Cir. 2012) (citations omitted). Foster children's clearly established substantive due process rights include protection from agency practices that place them at an unreasonable risk of harm. See, e.g., *Henry A.*, 678 F.3d at 1000-01; see also *Tamas v. Dep't of Social & Health Servs.*, 630 F.3d 833, 846-47 (9th Cir. 2010) (surveying cases in other circuits). Foster children's substantive due process rights also extend to practices that result in *actual* emotional or psychological harm. See, e.g., *R.G. v. Koller*, 415 F. Supp. 2d 1129, 1156 (D. Haw. 2006) (in juvenile justice context, liberty interest in personal security and well-being encompasses a right to protection from psychological as well as physical abuse); *Marisol A. v. Giuliani*, 929 F. Supp. 662, 675 (S.D.N.Y. 1996), *aff'd* 126 F.3d 372 (2d Cir. 1997) (children in state custody "have a substantive due process right to be free from unreasonable and unnecessary intrusions into their emotional well-being"); *Aristotle P.*, 721 F. Supp. at 1010 ("The fact that the plaintiffs' injuries are psychological rather than physical is of no moment."); see also *K.H. ex rel. Murphy v. Morgan*, 914 F.2d 846, 848 (7th Cir. 1990) ("The extension of [the protection of the due process clause] to the case in which the plaintiff's mental health is seriously impaired by deliberate and unjustified state action is straightforward.").

behavior of an adult, experience literally provides the organizing framework for an infant and child.”). Exposure to trauma carries significant risks, including the risk of causing or exacerbating mental and behavioral health problems and disorders, as well as the risk of altered brain development. *See, e.g.,* Victor G. Carrion & Shane S. Wong, *Can Traumatic Stress Alter the Brain? Understanding the Implications of Early Trauma on Brain Development and Learning*, 51 J. ADOLESC. HEALTH S23 (2012); Alexandra Cook et al., *Complex Trauma in Children and Adolescents*, 35 PSYCHIATRIC ANNALS 390 (2005); National Child Traumatic Stress Network, *Effects of Complex Trauma*, <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects>.

Maintaining sibling connections can reduce the stress and trauma youth experience as they enter and adjust to life in the foster care system. For many children involved with the child welfare system, sibling relationships take on more significance because they can provide stability, support, and care that is not consistently provided by parents. Maintaining these sibling relationships helps foster children to cultivate a positive sense of identity and connection with their cultural and family histories. Research has shown that sibling relationships can promote resilience and diminish the impact of adverse circumstances such as parental mental illness, substance abuse, or loss. *See* Children’s Bureau, *Sibling Issues in Foster Care and Adoption* (Jan. 2013), at 1, <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>; Melissa S. Kittmer, *Risk*

and Resilience in Alcoholic Families: Family Functioning, Sibling Attachment, and Parent-Child Relationships (ProQuest Information & Learning ed., 2005); Krista Gass, Jennifer Jenkins & Judy Dunn, *Are Sibling Relationships Protective? A Longitudinal Study*, 48 J. CHILD PSYCHOL. & PSYCHIATRY 167 (2007).

Social science indicates that the anxiety and pain foster children feel over being separated from their parents is exacerbated when they are also separated from their siblings, often causing them to feel that “they have lost a part of themselves.” Herrick & Piccus, at 849. Not surprisingly, studies have shown that siblings who are separated during their time in foster care are more likely to exhibit challenging behaviors than those whose sibling relationships stay intact. Sonya J. Leathers, *Separation from Siblings: Associations with Placement Adaptation and Outcomes Among Adolescents in Long-Term Foster Care*, 27 CHILDREN & YOUTH SERVS. REV. 793, 796 (2005). In addition, research demonstrates that separated siblings are at greater risk for negative outcomes. *Id.* at 795 (foster youth placed apart from siblings are at greater risk for placement disruption and less likely to exit to adoption or guardianship); Mark Courtney et al., *Youth Who Run Away from Out-of-Home Care*, Chapin Hall (2005), <https://www.chapinhall.org/research/youth-who-run-away-from-out-of-home-care/> (foster youth placed with a sibling less likely to run away than foster youth placed without siblings).

As siblings in foster care, J.P. and M.M. shared this significant bond. Social science research suggests that, for J.P., the trauma associated with removal from his home and entry into the foster care system could have been mitigated by having his sister M.M. by his side. Instead, it was compounded by the emotionally devastating experience of watching his sibling suffer and ultimately die in his arms.

CONCLUSION

For the reasons stated above, amici National Center for Youth Law, Advokids, Bay Area Legal Aid, Children's Rights, East Bay Children's Law Offices, Juvenile Law Center, Legal Services for Children, National Association of Counsel for Children, and Youth Law Center respectfully urge this Court to affirm the district court's ruling.

Dated: January 23, 2019

Respectfully submitted,

By: /s/ Leecia Welch
Leecia Welch
Senior Director, Legal Advocacy & Child Welfare
NATIONAL CENTER FOR YOUTH LAW

405 14th Street, 15th Floor
Oakland, CA 94612

*Attorney for Amici Curiae,
National Center for Youth Law, et al.*

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form08instructions.pdf>

9th Cir. Case Number(s)

I am the attorney or self-represented party.

This brief contains words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

- complies with the word limit of Cir. R. 32-1.
- is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.
- is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
 - it is a joint brief submitted by separately represented parties;
 - a party or parties are filing a single brief in response to multiple briefs; or
 - a party or parties are filing a single brief in response to a longer joint brief.
- complies with the length limit designated by court order dated
- is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov