No. 08-0391

IN THE SUPREME COURT OF TEXAS

In re Texas Department of Family & Protective Services

Relator

Original Proceeding from Cause No. 03-08-00235-CV
in the Third Court of Appeals
Austin, Texas

BRIEF OF *AMICI CURIAE*, American Civil Liberties Union & American Civil Liberties Union of Texas, IN OPPOSITION TO RELATOR'S PETITION FOR MANDAMUS

Daniel Mach
D.C. Bar No. 461652
Lane Dilg
State Bar No. 24053178
ACLU FOUNDATION
PROGRAM ON FREEDOM OF
RELIGION & BELIEF
915 15th Street NW, 5th Floor
Washington, DC 20005
Tel.: (202) 675-2330
Fax: (202) 546-0738

Lisa Graybill
State Bar No. 24054454
Fleming Terrell
State Bar No. 24063031
ACLU FOUNDATION OF TEXAS
P.O. Box 12905
Austin, TX 78711-2905
Telephone: (512) 478-7300
Facsimile: (512) 478-7303

COUNSEL FOR *AMICI CURIAE*

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STATEMENT OF AMICUS IDENTITY AND INTEREST

Amicus American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan organization with more than 500,000 members dedicated to the defense of constitutional rights and civil liberties. *Amicus* ACLU of Texas is the state affiliate of the national organization, with over 16,000 supporters and members across the state. Since its founding in 1920, the ACLU has appeared in both state and federal court to advocate for due process of law where the government has intruded upon basic fundamental rights, including the right to maintain family relationships and to raise children free from interference by the state and the right of religious liberty. In 2005, the ACLU Foundation established its Program on Freedom of Religion and Belief to specialize in religious liberty issues, including the rights of individuals to engage in religious practice and to associate with other believers.

Amici affirm that this brief has been filed on their behalf, and that they have paid all fees charged, if any, for preparation of the brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

The United States Constitution and the Texas Constitution protect the fundamental rights of all Texans to believe as they choose; practice the religion of their choice or none at all; and raise their children in accordance with their values and beliefs. As the United States Supreme Court has explained, "[c]hoices about marriage, family life, and the upbringing of children are . . . ranked as 'of basic importance in our society,'" and are "sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or disrespect." *M.L.B. v. S.L.J.,* 519 U.S. 102, 116 (1996) (quoting *Boddie v. Connecticut*, 401 U.S. 371, 376 (1971)).

These rights, though fundamental, are not absolute. Neither the Texas nor the United States Constitution shields those who perpetrate physical or sexual abuse on children. The State of Texas, through its Department of Family and Protective Services (DFPS), is charged with identifying children who are in imminent danger and initiating proceedings to ensure that children are protected from harm.

Because the law recognizes the parents' paramount right to raise their children without unjustified intrusion by the State, the State bears the statutory burden of demonstrating that the removal of a child from his or her parents is necessary to prevent imminent harm to the child. This Court has proclaimed on multiple occasions that "[a]ctions which break the ties between a parent and child 'can never' be justified without the most solid and substantial reasons." *Wiley v. Spratlan*, 543 S.W.2d 349, 352 (Tex. 1976) (quoting *State v. Deaton*, 54 S.W. 901 (Tex. 1900)).

The State of Texas, through DFPS, took the unprecedented step of removing over 450 children from the YFZ Ranch on April 4, 2008, and, in a mass hearing held 14 days later, of petitioning the 51st District Court in San Angelo for sole temporary managing conversatorship of every one of those children based on the generalized testimony of two witnesses. The Texas Family Code establishes standards and procedures for adjudicating temporary custody when danger to a child is alleged and the district court did not follow them, thereby depriving Real Parties in Interest's right to due process of law. Moreover, when evidence sufficient to meet the standards laid out in the Family Code is not provided, the district court must return the children to their parents. The district court failed to return the children despite the absence of the required evidence, thereby depriving Real Parties in Interest of their fundamental rights to be with their children absent evidence of harm.

The State's sole evidence on harm was limited to general allegations that these parents are part of a "culture," and subscribe to a "belief," and a "mindset," that girls as young as 14 may be considered of age to marry. The record contains no evidence of harm specific to the children of Real Parties in Interest. The United States Constitution does not allow DFPS to separate children and their parents based solely on beliefs, *see* U.S. Const. Amend. I., and state law does not authorize it, *see* Tex. Fam. Code § 262.201.

The Third Court of Appeals reviewed the record and found that DFPS categorically failed to meet its statutory burden under the law. Specifically, DFPS (1) failed to put forth any actual evidence of imminent danger of physical harm to the children of Real Parties in Interest, *see id.*(a)(1), (2) could point to no "reasonable

efforts" it had "made to eliminate or prevent the child[ren's] removal, *id.* (a)(2), and (3) made no showing that it attempted to "enable the child[ren] to return home," after the initial seizure *id.* (a)(3). *See In re Sara Steed, et al.*, No. 03-08-00235-CV, at 6-9 (Tex. Ct. App.—Austin, May 22, 2008, pet. filed). Because the proceedings in the district court were procedurally insufficient and the ruling was not supported by evidence as required by law, the Court of Appeals' grant of mandamus relief to Real Parties in Interest was appropriate. Relators' present petition for mandamus relief should be denied.

ARGUMENT

Texas law plainly provides that DFPS must return any child removed from his or her home on an emergency basis unless a court, after a full adversary hearing, makes the following findings:

> (1) there was a danger to the physical health or safety of the child which was *caused by an act or failure to act of the person entitled to possession* and for the child to remain in the home is contrary to the welfare of the child;
>
> (2) the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal; *and*
>
> (3) reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.

Tex. Fam. Code § 262.201(b) (emphasis added). Each element of this statute must be proven by DFPS and found by the district court, and the statute is to be strictly construed in favor of returning the child to his or her parents. *See In re E.D.L.*, 105 S.W.3d at 685

(citing *Holick,* 685 S.W.2d at 20). The Court of Appeals, after careful review of the record in this case, concluded that DFPS "did not carry its burden of proof" under this section and that "[t]he evidence adduced at the hearing . . . was legally and factually insufficient to support the findings required by section 262.201 to maintain custody of Relators' children with DFPS." *In re Sara Steed, et al.*, No. 03-08-00235-CV, at 9. Any other ruling would have raised constitutional problems of great proportion. In considering DFPS's petition for mandamus, *Amici* urge this Court to devote particular attention to core notions of due process protected by the Texas Constitution and the Fourteenth Amendment to the United States Constitution.[1]

I. The Constitution Prohibits the State from Interfering with Fundamental Rights Absent Due Process of Law

The constraints of the Due Process Clause are not fixed across categories. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) (citation and internal quotation marks omitted). "The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be 'condemned to suffer grievous loss,' and depends upon whether the recipient's interest in avoiding that loss outweighs the governmental interest in summary adjudication." *Goldberg v. Kelly*, 397 U.S. 254, 262-63 (1970) (quoting *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring)). Thus, "'consideration of what procedures due process may require under any given set of circumstances must begin with a

[1] This Court is "not bound by federal due process jurisprudence," in interpreting Article I, Section 19 of the Texas Constitution, but nevertheless "consider[s] federal interpretations of procedural due process to be persuasive authority in applying [its] due course of law guarantee." *Univ. of Texas Medical Sch. v. Than*, 901 S.W.2d 926, 929 (Tex. 1995).

determination of the precise nature of the government function involved as well as of the private interest that has been affected by governmental action.'" *Id.* at 263 (quoting *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 895 (1961)).

In the case of parental rights, "[t]he natural right which exists between parents and their children is one of constitutional dimensions." *Wiley v. Spratlan*, 543 S.W.2d 349, 352 (Tex. 1976). A parent's right to uninterrupted access to and care of her child ranks as "far more precious than property rights," *Holick v. Smith,* 685 S.W.2d 18, 20 (Tex.1985), and indeed is a "fundamental liberty interest protected by the Fourteenth Amendment." *Stantosky v. Kramer*, 455 U.S. 745, 753 (1982); *see also Than*, 901 S.W.2d at 929 (recognizing "the right of the individual to … marry, establish a home and bring up children, [and] to worship God according to the dictates of one's own conscience" as liberty interests entitled to due process) (quoting *Bd. of Regents v. Roth*, 408 U.S. 564, 572 (1972) (internal quotation marks omitted)). Accordingly, courts have singled out for heightened protection that "most essential and basic aspect of familial privacy – the right of the family to remain together without the coercive interference of the awesome power of the state." *Hodorowski v. Ray*, 844 F.2d 1210, 1216 (5th Cir. 1988) (quoting *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir.1977)); *see also Duchesne,* 566 F.2d at 825 ("This right to the preservation of family integrity encompasses the reciprocal rights of both parent and children. It is the interest of the parent in the companionship, care, custody and management of his or her children, and of the children in not being dislocated from the emotional attachments that derive from the intimacy of daily association, with the parent.") (internal citations and quotations

omitted).

The temporary nature of the deprivation in this case, which threatens to last months rather than weeks, neither substantially diminishes parents' interest in the companionship of their children nor frees the state from constitutionally imposed constrictions. "Even a temporary separation can be destructive" and "triggers constitutional protections." *Nicholson v. Williams*, 203 F. Supp. 2d 153, 235 (E.D.N.Y. 2002); *see also Tenenbaum v. Williams,* 193 F.3d 581, 594 (2d Cir. 1999) (stating that even temporary removal of a child "depriv[es] the parents of the care, custody, and management of their child"); *Strail v. Dept. of Children, Youth & Families of Rhode Island,* 62 F. Supp. 2d 519, 526 (D.R.I.1999) ("[T]he Supreme Court has afforded protection against temporary deprivations in the parent-child relationship as part of the right to familial integrity.").

II. The Mass Hearing and Generalized Nature of the Evidence in This Case Deprived Real Parties in Interest of their Due Process Rights.

When government officials assume custody of a child, even on a temporary or emergency basis, the Texas Constitution and the Due Process Clause at a minimum require that the child's parents receive prompt notice and a meaningful opportunity to challenge individualized evidence presented. *See, e.g.*, Texas Family Code § 262.201; *Than*, 901 S.W.2d at 930 ("Due process at a minimum requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner.") (citing *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)); *Eidson v. State of Tennessee Dep't of Children's Servs.*, 510 F.3d 631 (6th Cir. 2007); *Weller v. DSS*, 901 F.2d 387 (4th Cir. 1990); *Suboh*

v. Borgioli, 298 F.Supp.2d 112 (D. Mass. 2004); *Kia P. v. McIntyre*, 2 F. Supp. 2d 281, 290 (E.D.N.Y. 1998); *Miller v. Philadelphia*, 954 F. Supp. 1056 (E.D. Pa. 1997). The hearing conducted in this case provided no such meaningful opportunity.

The Department initiated this case not with individual petitions seeking temporary managing conservatorship of individual children, but with 124 petitions seeking to remove over 400 children. A single petition, for example, requested that the court grant DFPS possession of over 330 children of varying ages, sexes, and situations. *See* Cause 2902. The district court then considered all of these petitions during a single, two-day hearing with most parties absent and lawyers, appointed only days before, scattered between the courtroom and an auxiliary facility staged in the City auditorium. *See* 4 RR 148, 166, 173-74; *see also* 4 RR 93, 319 (discussing the Hobson's choice posed mothers who could assist their attorneys in court only by leaving their children in unknown, and seemingly ever-changing, circumstances under DFPS's care).

Although Judge Walther, the presiding judge, attempted to effect order and encourage appropriate participation, even extraordinary effort does not equate with legal adequacy. As Judge Walther herself stated, the hearing represented a "balance" between the statute's requirements that process be provided within 14 days and that it be adversarial; and the result, she acknowledged, was "not a perfect solution." 4 RR 15; *see* 4 RR 67, 320-21 (highlighting some of the many difficulties attorneys encountered in trying to advocate effectively for individual clients in the midst of this mass proceeding).

Further, despite the basic principle that legal standards must be proved on an individual basis, and the clear accordant requirement in the Texas Family Code,[2] and despite the varied circumstances – different ages, sexes, families, and living situations – of the children before it, DFPS failed to provide evidence sufficient to show that each child was in danger, relying instead upon testimony about beliefs ascribed to the group as a whole and assertions of broad cultural harm. *See In re Sara Steed, et al.*, No. 03-08-00235-CV, at 6-7. Courts have repeatedly held that such proof by presumption is inappropriate when parental rights are at stake. In *Stanley v. Illinois*, for example, the court held that a state must hold individual hearings to determine parental rights, and may not, based on a presumption, categorically deny unwed fathers custody. 405 U.S. 645, 656-58 (1972). In *Nicholson v. Williams*, a federal district court found a state's practice of removing children from mothers in abusive relationships without proving that the child faced actual harm unconstitutional. 203 F. Supp. 2d 153, 238 (E.D.N.Y. 2002) ("[I]f an agency removes or unnecessarily delays the return of a child to a mother against whom it has no evidence of her abuse or neglect, on the grounds that the father is abusive to the mother, the mother's procedural due process rights have been infringed."). And a Texas Court of Appeals recently explained in *In re Cochran*, 151 S.W.3d 275 (Tex. App.—Texarkana 2004, no pet., that evidence that a couple's parental rights had been terminated as to eight previous children did not alone justify assumption of temporary managing

[2] Under the plain terms of the relevant Texas Family Code provisions, determinations must focus on individual children; for while the statute refers repeatedly to danger to "a child," it also expressly allows a court to consider the presence in a household of a person who has abused or neglected *"another* child" in determining whether there is an immediate danger to the physical health and safety of the child CPS seeks to remove. *See* Family Code §§ 262.102; 262.107(d) (emphasis added).

conservatorship of a ninth child who was by all indications healthy and safe. By issuing orders based on the state's broad evidence regarding alleged community culture alone, the district court failed to meet its statutory obligation to find each the elements of Family Code § 262.201 satisfied with regard to each child to whom its orders applied.

Such unusual proceedings and the risk of error they entail cannot possibly be justified by administrative or financial concerns. *See, e.g.*, *Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 28 (1981) (holding that though the State's pecuniary interest in avoiding the expense of appointed counsel at custody hearings is "legitimate, it is hardly significant enough to overcome private interests as important as those here"); *see also Stantosky* at 758 ("In parental rights termination proceedings, the private interest affected is commanding; the risk of error from using a preponderance standard is substantial; and the countervailing governmental interest favoring that standard is comparatively slight."). But in this case, DFPS's own interest in proper proceedings should have far exceeded its own desire for administrative efficiency: "Since the State has an urgent interest in the welfare of the child, it shares the parent's interest in an accurate and just decision" at the fact-finding proceeding. *Lassiter,* 452 U.S. at 27. The 14-day requirement of Family Code § 262.201 is of procedural rather than jurisdictional dimension; thus delay on account of administrative incapacity would not have resulted in dismissal of DFPS's case. *See, e.g.*, *In re J.M.C.*, 109 S.W.3d 591, 595 (Tex. App.—Fort Worth 2003, no pet.); *In re E.D.L.*, 105 S.W.3d 679, 687-88 (Tex. App.—Fort Worth 2003, pet. denied).

When the state forcibly removes children from their parents' care, subsequent hearings must be held, must be adequate, must be fair, and must include evidence

sufficient to meet the state standard for every child removed. Anything less exacerbates the harm to the state as well as to the parents.

III. The State May Not Separate Parents and Their Children Based Solely on Thoughts and Beliefs.

The evidence DFPS put forth was not just over generalized. It also focused heavily on the beliefs ascribed to the parents, rather than – as Section 262.201 requires – on actions or omissions that threatened to place the children in harm's way. DFPS failed to "offer any evidence that any of Relators' [children, including] pubescent female children were in physical danger other than that those children live in a ranch among a group of people who have a 'pervasive system of belief' that condones polygamous marriage and underage females having children." *In re Sara Steed, et al.*, No. 03-08-00235-CV, at 7. Any interpretation of Section 262.201 that permitted DFPS to prove its case based on evidence of beliefs alone, whether proven individually or in a generalized manner, would run afoul of the limits on governmental action found in the First Amendment and Texas' Religious Freedom Restoration Act (RFRA), Tex. Civ. Practice & Remedies Code § 110.001, *et seq.*

In 1999, the Texas legislature affirmed its high regard for the rights of all individuals in the state to practice religion freely when it passed RFRA, which bars state agencies from "substantially burdening a person's free exercise of religion" absent a "compelling state interest" and a demonstration that no less restrictive means of furthering that interest existed. *See* Tex. Civ. Prac. & Rem. Code § 110.003. DFPS could never, consistent with this law, condition a parent's access to her child on alteration

of the parent's beliefs as opposed to her actions. *See* Texas Family Code 262.201; *see also* TEX. CONST. art. I, § 6 ("All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. . . . No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion . . . ."). Nor would the First Amendment permit such legislation. "The free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires." *Employment Div. v. Smith*, 494 U.S. 872, 877 (1990). "To be sure, the Free Exercise Clause bars 'governmental regulation of religious beliefs as such,'" *Gillette v. United States*, 401 U.S. 437, 462 (1971) (quoting *Sherbert v. Verner*, 374 U.S. 398, 402 (1963)). Accordingly, while religious beliefs may provide no exemption to general laws, such beliefs may not, standing alone, form the basis for adverse government action. *See Smith*, 494 U.S. at 877.

Indeed, this rule applies whether or not the speech involved is religious. "[T]he constitutional guarantee[] of free speech . . . do[es] not permit a State to forbid or proscribe advocacy [even] . . . of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (per curiam). "[M]ere abstract teaching . . . is not the same as preparing a group for [illegal] action and steeling it to such action. . . . A statute which fails to draw this distinction impermissibly intrudes upon the freedoms guaranteed by the First and Fourteenth Amendments." *Id.* at 448 (citations omitted). As Justice Scalia has noted in the context of a belief frequently cited by DFPS in this case, "[t]o the extent, if any, that [*Davis v. Beason*, 133 U.S. 333 (1890)] permits

the imposition of adverse consequences upon mere abstract advocacy of polygamy, it has, of course, been overruled." *Romer v. Evans*, 517 U.S. 620, 649-50 (1996) (Scalia, J., dissenting) (citations omitted).

Finally, the First Amendment "restricts the ability of the State to impose liability on an individual solely because of his association with another." *N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 918-19 (1982); *see also Healy v. James*, 408 U.S. 169, 181 (1972) ("[W]hile the freedom of association is not explicitly set out in the First Amendment, it has long been held to be implicit in the freedoms of speech, assembly, and petition (articulating the same principle in the civil context."); *Elfbrandt v. Russell*, 384 U.S. 11, 17-18 (1966). The Real Parties in Interest in this case may not be deprived of their rights to raise their children based on their associations with particular individuals or institutions absent evidence of a threat of physical harm to their children, for the U.S. Supreme Court has "consistently disapproved governmental action imposing criminal sanction or denying rights and privileges solely because of a citizen's association with an unpopular organization." *Healy*, 408 U.S. at 186.

"The existence of the FLDS belief system as described by DFPS's witnesses, by itself, does not put FLDS children in physical danger." *In re Sara Steed, et al.*, No. 03-08-00235-CV, at 9. The State has broad powers to respond to actual threats of child abuse, but it may not separate families based on a parent's mere adoption of or association with a particular belief system. Thus even if Section 262.201's physical harm provision could somehow be construed to permit removal of children based on the beliefs held at YFZ alone – and *Amici* contend that it cannot – the statute would purport to

punish mere speech and thus "fall[] within the condemnation of the First and Fourteenth Amendments."

IV. The Real Parties in Interest Are Entitled to Fair and Impartial Application of State Law.

In every case, criminal or civil, state, federal, or administrative, fundamental fairness requires that an impartial adjudicator "apply the law [to the current party] in the same way he applies it to any other party." *Republican Party of Minnesota v. White*, 536 U.S. 765, 776 (2002); *see also Ponte v. Real*, 471 U.S. 491, 495 (1985) ("The touchstone of due process is freedom from arbitrary governmental action."). In this case, the plain language of the governing state law, § 262.201, unambiguously states that a child must be returned unless a court finds that "there was a danger to the *physical* health or safety of the child," § 262.201(b)(1) (emphasis added). DFPS can point to no previous interpretation of this language construing the term "physical" to signify anything other than its ordinary meaning.[3] *Cf. In re J.W.M.*, 153 S.W.3d 541, 545 (Tex.App.—Amarillo 2004, pet. denied) (stating that when interpreting statutes, courts "must presume the legislature chose its words carefully, that every word was included for some purpose and that every word excluded was omitted for a purpose"). Yet, as the Court of Appeals found, "[t]he Department did not present any evidence of danger to the physical health or safety of any male children or any female children who had not reached puberty[;] [n]or

[3] Before the Court of Appeals, DFPS reframed its argument, relying instead on interpretations of "endangerment" in the context of parental termination proceedings. *See* Real Party in Interest's Response to Amended Petition for Mandamus, at 30-32. These cases, however, interpret not Family Code § 262.201, the relevant standard in this case, but Family Code § 161.001, a substantially different standard, used to examine claims for permanent termination of the parental relationship after full investigation of the interests of the child. *See id.* at 30-32 (citing cases relating to the endangerment standard under § 161.001).

did DFPS offer any evidence that any of Relators' pubescent female children were in physical danger . . . ." *In re Sara Steed, et al.*, No. 03-08-00235-CV, at 7.

However well-intentioned DFPS and the district court may have been, the application of novel expansions of state law to individuals associated with disfavored minority religious groups raises concerns about possible religious animus. There is a vast difference between "a legitimate [social services] investigation" and "a campaign to drive a wedge between parents and their children for obviously illegitimate reasons and by clearly unacceptable means." *Word of Faith Fellowship v. Rutherford County Department of Social Services*, 329 F. Supp. 2d 675, 685 (W.D.N.C. 2004) (allowing the group to proceed on its Section 1983 claim that a county social services department had unconstitutionally subjected it to repeated threats and sham child services investigations).

> The Free Exercise Clause [of the First Amendment] commits government itself to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures. Those in office must be resolute in resisting importunate demands and must ensure that the sole reasons for imposing the burdens of law and regulation are secular. Legislators may not devise mechanisms, overt or disguised, designed to persecute or oppress a religion or its practices.

Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 547 (1993). *Amici* urge this Court to carefully scrutinize the record in this case to ensure that those associated with the YFZ Ranch received the same fair treatment under the law to which all individuals are entitled.

CONCLUSION

"This [C]ourt has always recognized the strong presumption that the best interest of a minor is usually served by keeping custody in the natural parents." *Wiley*, 543 S.W.2d at 352 (citing *Herrera v. Herrera*, 409 S.W.2d 395 (Tex.1966); *Gunn v. Cavanaugh*, 391 S.W.2d 723 (Tex.1965); and *Mumma v. Aguirre*, 364 S.W.2d 220 (Tex.1963)). To justify the extraordinary measure of removal, even for a short period of time, the law places the burden on the state to meet specific evidentiary requirements in the context of an adversary hearing with full due process protections for the parent(s). The role of the distict court is to ensure that the state meets its burden and to issue a ruling in accordance with state law, including federal and state constitutional principles.

In the absence of a danger to the physical health or safety of the children of Real Parties in Interest, and in the context of a mass hearing which effectively precluded Real Parties in Interest from asserting or receiving their constitutionally protected right to due process of law, the district court in this case was required to return the children to the custody of their parents. The district court's decision to instead grant custody to the state is inconsistent with Texas law as prescribed in the Family Code, constituted a violation of the constitutional rights of Real Parties in Interest and is an abuse of discretion. If the district's court decision is allowed to stand in the absence of specific evidence and despite the denial of due process, the rights of all parents and children in Texas will be placed at risk. Accordingly, Amici respectfully urge this court to deny Relator's petition for mandamus relief.

Respectfully Submitted,

\s\ Lisa Graybill

Lisa Graybill
State Bar No. 24054454
Fleming Terrell
State Bar No. 24063031
ACLU FOUNDATION OF TEXAS
P.O. Box 12905
Austin, Texas 78711-2905
Telephone: (512) 478-7300
Facsimile: (512) 478-7303

Daniel Mach
D.C. Bar No. 461652
Lane Dilg
State Bar No. 24053178
ACLU FOUNDATION
PROGRAM ON FREEDOM OF RELIGION & BELIEF
915 15th Street NW
Washington, DC 20005
Tel.: (202) 675-2330
Fax: (202) 546-0738

Counsel to Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing brief was served upon the following counsel of record via the method indicated below, on this the 29th day of May, 2008.

Trevor A. Woodruff — *Via U.S. Mail and Facsimile*
P.O. Box 24042191
MC: Y-934
Austin, Texas 78714

Duke Hooten — *Via U.S. Mail and Facsimile*
P.O. Box 149030
MC: Y-934
Austin, Texas 78714

Michael Shulman — *Via U.S. Mail and Facsimile*
P.O. Box 149030
MC: Y-934
Austin, Texas 78714

Counsel for Relator, Texas Department of Family and Protective Services

Robert Doggett — *Via U.S. Mail and Facsimile*
Julie M. Balovich
Amanda J. Chisholm
Texas Rio Grande Legal Aid
4920 N. IH-35
Austin, Texas 78751

Amy Warr — *Via U.S. Mail and Facsimile*
Douglas W. Alexander
Alexander Dubose Jones & Townsend LLP
Bank of America Center
515 Congress Avenue, Suite 1720
Austin, Texas 78701

Counsel for Real Parties in Interest, Sara Steed, et al.

Honorable Barbara Walther
51st Judicial District Court
County Courthouse
112 West Beauregard
San Angelo, Texas 79603

Via U.S. Mail and Facsimile

Respondent in Court of Appeals

Third Court of Appeals
P.O. Box 12547
Austin, Texas 78711

Via U.S. Mail and Facsimile

Respondent in Supreme Court

\s\ Lisa Graybill
Lisa Graybill