

No. 18-36082

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

Kelsey Cascadia Rose Juliana, *et al.*,
Plaintiffs-Appellees,

v.

United States of America, *et al.*,
Defendants-Appellants.

Appeal from the United States District Court
for the District of Oregon

**BRIEF OF *AMICI CURIAE* CHILDREN'S RIGHTS ADVOCATES
IN SUPPORT OF PLAINTIFFS-APPELLEES'
PETITION FOR REHEARING *EN BANC***

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Amici curiae certify that *amici* and their counsel were the sole authors of this brief and that they bore all costs of this brief, with no financial contributions from any party, party's counsel, or any other person not affiliated with *amici curiae* or their counsel.

Dated: March 12, 2020

Respectfully submitted,

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INTEREST OF *AMICI CURIAE*

Pursuant to Federal Rule of Appellate Procedure 29(b), *amici curiae* children’s rights advocates respectfully submit this brief in support of the Plaintiffs-Appellees’ Petition for Rehearing *En Banc*. All parties have consented in writing to the filing of this brief. 9TH CIR. R. 29-2(a). *Amici* are non-profit organizations and legal scholars interested in developing the role of the law in protecting children’s rights. A list of *amici* appears in an attached appendix. *Amici* are specifically interested in this case to ensure that courts recognize the judicial role in protecting children against the detrimental impacts of climate change.

SUMMARY OF THE ARGUMENT

The panel erred in determining that no legal remedy is available to the youth in this case. The majority directed the children to the political process to bring climate grievances; however, children lack political power and therefore have no recourse there. Precedent recognizes a special judicial role in protecting children where children are explicitly excluded from influencing policies detrimental to them. The panel's conclusion that there is no remedy available to these innocent children overlooked this precedent.

Children are uniquely and disproportionately harmed by climate change. The government's system of subsidies and programs promoting fossil fuel use causes climate change, yet children are unable to influence these harmful government policies. Historically, the Supreme Court has stepped in to protect vulnerable groups marginalized from the political process, including children punished because of circumstances beyond their control. This precedent demonstrates this Court's obligation to step in to protect children from the detrimental harms of climate change. The Court's role in protecting these children is even more vital because neither children nor our planet can withstand the irreversible damage that will arise from more decades of delay.

ARGUMENT

I. Climate change uniquely affects children, and yet they are powerless to change government policies that perpetuate climate change.

A. Children are uniquely and disproportionately harmed by climate change.

Climate change involves long-term increased temperatures and rising sea levels largely attributed to increased CO₂ in the atmosphere produced by fossil fuel use.¹ In turn, changes in temperature and sea levels cause intensified extreme weather events, such as flooding, hurricanes, wildfires, droughts, and forced migration of humans and wildlife.² These detrimental effects will worsen such that the destabilizing climate will “bury cities, spawn life-threatening natural disasters, and jeopardize critical food and water supplies.” Op. 15.³ This increase of disease, food and water insecurity, and many other threats severely affect children’s physical and mental health, and will only continue to get worse.⁴

The existential crisis of climate change already affects today’s children.⁵ Children’s asthma and respiratory issues are exacerbated by decreased air quality

¹ Nat’l Geographic, *Climate Change*, <https://www.nationalgeographic.org/encyclopedia/climate-change> (last visited March 10, 2020).

² Susie Burke *et al.*, *The Psychological Effects of Climate Change on Children*, 20 *Current Psychiatry Rep.* 3 (2018).

³ The panel’s opinions are published at 947 F.3d 1159 (9th Cir. 2020). This brief cites to page numbers of the slip opinion.

⁴ Burke, *supra* note 2, at 2.

⁵ *Id.* at 3.

stemming from increased temperatures and wildfires caused by climate change.⁶ In the United States, approximately 8.4% of children already suffer from asthma.⁷ An additional threat of climate change is infectious disease, including Lyme disease, as increased temperatures create a wider habitat range for disease carrying organisms.⁸ Of the 300,000 individuals diagnosed with Lyme disease in this country every year, 25% are children.⁹ Continued climate change will only exacerbate these harmful consequences, especially for children.

Children's heightened exposure and immature physiological development render them particularly susceptible to the detrimental effects of climate change.¹⁰ Children are exposed to more pollutants and contaminants than adults, as they "breathe more air, drink more water, and eat more food per unit of body weight."¹¹ The increased intake of pollutants and contaminants is harmful to children, especially those in communities

⁶ Crimins, A.J., *et al.*, *Executive Summary. The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*. U.S. Global Change Research Program, Washington, DC (2016).

⁷ U.S. Env'tl. Protection Agency, *Key Findings of America's Children and the Environment*, <https://www.epa.gov/americaschildrenenvironment/key-findings-americas-children-and-environment> (last visited March 6, 2020).

⁸ Crimins, *supra* note 6.

⁹ Children's Lyme Disease Network, *Basics of Lyme Disease*, <http://www.childrenslymenetwork.org/children-lyme/lyme-disease-basics/> (last visited March 6, 2020).

¹⁰ Burke, *supra* note 2, at 2.

¹¹ Perry E. Sheffield & Philip J. Landrigan, *Global Climate Change and Children's Health: Threats and Strategies for Prevention*, 119 *Env'tl. Health Perspectives* 291 (2011).

of color and low-income communities that live near fossil fuel infrastructure and other sources of air pollution.¹²

In addition to children's heightened exposure, children's weak immune systems and underdeveloped organs make it difficult for their bodies to adapt to shifting climate patterns.¹³ Warmer temperatures increase the amount of pollen and allergens produced by plants as well as particulate matter in the air, which "exacerbates respiratory disease and asthma in children."¹⁴ Moreover, children have more difficulty adapting to heat than adults, as their thermoregulatory systems are not yet fully developed, which may cause dehydration, renal disorders, and heat-related morbidity.¹⁵ Further, unpredictable temperatures and increased rainfall that result from climate change contribute to land degradation and reduction of crop yields, as well as decreased protein in wheat, corn, and soy, placing children at risk of malnutrition.¹⁶

¹² U.S. ENVTL. PROTECTION AGENCY, *America's Children and the Environment*, Third Edition, (Jan. 2013).

¹³ Neal Fann et al., *Ch: 3. Air Quality Impacts. The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*. U.S. GLOBAL CHANGE RESEARCH PROGRAM 69, 77 (2016), https://s3.amazonaws.com/climatehealth2016/low/ClimateHealth2016_03_Air_Quality_small.pdf; Sheffield, *supra* note 11, at 291, 293.

¹⁴ Crimins, *supra* note 6.

¹⁵ Sheffield, *supra* note 11, at 291.

¹⁶ IPCC, *Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems* (2019), https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf.

Children are also particularly vulnerable to the mental health impacts of climate change.¹⁷ Children struggle to cope with the stressors associated with extreme weather events, such as fear of losing a loved one and the fear of displacement, because they lack capacity to regulate emotion.¹⁸ Emotional regulation involves an interaction of multiple brain regions, including “the amygdala, ventral stratum and periaqueductal grey (PAG), as well as a set of cortical regions.”¹⁹ The circuitry underlying these interactions “continues to develop well into adulthood.”²⁰ Children’s difficulty regulating emotion hinders their ability to cope with the adverse effects of climate change, which, in turn places them at risk of developing post-traumatic stress, adjustment disorders, attachment disorders, sleep disorders, anxiety, depression, substance abuse, and phobias.²¹ Already up to 45% of children suffer from depression following natural disasters.²² And the frequency and magnitude of natural disasters will rise as climate change worsens.²³

¹⁷ Am. Psychiatric Ass’n, *How Extreme Weather Events Affect Mental Health*, 1, 3 (November 2019).

¹⁸ *Id.*

¹⁹ Amit Etkin, *et al.*, *The Neural Basis of Emotion Regulation*, 16 *Nature Reviews, Neuroscience* 693, 693 (2015).

²⁰ Sarah B. Johnson, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy*, 45 *J. of Adolescent Health* 216, 218 (2019).

²¹ Council on Env’tl. Health, *Global Climate Change and Children’s Health, Policy Statement*, 136 *Am. Acad. of Pediatrics* 992, 993 (2015).

²² Am. Pub. Health Ass’n, *Climate Changes Mental Health*, 1, 1 https://www.apha.org/~media/files/pdf/topics/climate/climate_changes_mental_health.ashx

²³ Council on Env’tl. Health, *supra* note 21.

B. The harms to children caused by climate change are the direct result of government policies.

Children are climate change's foremost victims, and their own government is perpetuating it. As Elena, age fifteen, explains, "We really didn't ask for [climate change]. We didn't cause it, we're trying to solve it."²⁴

As the majority opinion acknowledged, "the federal government has long promoted fossil fuel use despite knowing that it can cause catastrophic climate change, and that failure to change existing policy may hasten an environmental apocalypse." Op. 11. The government has long understood the correlation between burning of fossil fuels and destabilization of the global climate.²⁵ Numerous reports from agencies including the United States Environmental Protection Agency and the White House Council on Environmental Quality identified the dangers of continuing to burn fossil fuels and proposed plans to reduce greenhouse gases more than three decades ago.²⁶

Instead of acting on these plans, the government ignored their own warnings and "affirmatively promote[d] fossil fuels" through "beneficial tax provisions, permits for imports and exports, subsidies for domestic and overseas projects, and leases for fuel

²⁴ Jeva Lange, *The Climate Strike Kids, in Their Own Words*, THE WEEK, Sept. 20, 2019, <https://theweek.com/articles/866649/climate-strike-kids-words>.

²⁵ The 8th Annual Report of the Council on Environmental Quality (December 1977), <https://babel.hathitrust.org/cgi/pt?id=mdp.39015021811750&view=1up&seq=13>

²⁶ *Id.*; John S. Hoffman, EPA, *Projecting Future Sea Level Rise: Methodology, Estimates to the Year 2100, and Research Needs* (October 24, 1983), <http://www.biodiversitylibrary.org/item/86886#page/3/mode/1up>; U.S. ENVTL. PROTECTION AGENCY, *Can We Delay a Greenhouse Warming?* (September 1983), <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=9101HEAX.TXT>.

extraction on federal land.” Op. 15. The government’s affirmative actions substantially contribute to climate change, yet children are unable to influence these actions through the political process.

C. Children lack the rights and resources to influence government policies.

Children’s ability to participate in politics that affect their own destinies is severely limited because they cannot vote, lack the economic resources to participate in our society’s politics, and cannot initiate judicial action on their own. In all fifty states and the District of Columbia, the age of majority is eighteen or older. Even mature minors cannot vote. U.S. CONST. amend. XXVI § 2. Children cannot participate through the ballot box and must depend on guardians to make political decisions.

Children also lack the economic power held by adults to influence climate policies. Federal Reserve data charting wealth by age cohort shows that baby boomers (born 1946-1964) hold 57% of the nation’s household wealth, while Gen Xers (born 1965-1980) hold 21% and Millennials (born 1981-1996) hold a mere 3%.²⁷ Children are not even on the chart.²⁸ By law, minors are severely restricted in contributing to political action committees and candidates because contributed money must be in the child’s own name and cannot be a gift to the child.²⁹ Likewise, children cannot vote with their

²⁷ Christopher Ingraham, *The Staggering Millennial Wealth Deficit, in One Chart*, WASHINGTON POST, Dec. 3, 2019.

²⁸ *Id.*

²⁹ Contributions by Minors, 11 C.F.R §110.19(a)-(b) (2014).

own dollars.³⁰ They have little to no influence over their family's economic choices regarding clean energy and transportation, or food and goods with a low carbon footprint.³¹ Parents and guardians control these decisions.

Without control of votes or economic resources, children are powerless to compete with well-resourced fossil fuel lobby groups.³² Industries involved in fossil fuel use rely on lobbying to heavily influence government policies that promote consumption and development of fossil fuels.³³ Between 2000 and 2016, these industries outspent the renewable energy industry tenfold on lobbying to successfully ensure the continued promotion of fossil fuel use.³⁴

Moreover, children cannot initiate judicial action without an adult's assistance. When courts close their doors to youth, their only recourse is to become defendants rather than plaintiffs. One example is civil rights hero and future congressional representative John Lewis.³⁵ He initially sought to participate as a named plaintiff in an NAACP Legal Defense Fund challenge to the segregationist policies of Alabama's

³⁰ Expert Rep. of Catherine Smith, J.D. in *Juliana v. United States*, 37, available at http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/case-documents/2018/20180628_docket-615-cv-1517_exhibit-10.pdf.

³¹ *Id.*

³² *Id.*

³³ Robert J. Brulle, *The Climate Lobby: A Sectoral Analysis of Lobbying Spending on Climate Change in the USA, 2000 to 2016*, *Climate Change* (July 19, 2018).

³⁴ *Id.*

³⁵ JOHN LEWIS & MICHAEL D'ORSE, *WALKING WITH THE WIND: A MEMOIR OF THE MOVEMENT* 69 (Harcourt Brace & Co., 1998).

public universities, but he was unable to do so because he was a minor.³⁶ His only recourse, and that of other young people in the movement, was to put their bodies on the line through civil disobedience.³⁷

Despite the limits placed on youth participation in politics, American youth have made important contributions in advocating for justice. Children of all ages appear as key figures in social justice movements.³⁸ Many young people not yet of voting age served as soldiers during the Revolutionary War.³⁹ Young factory and mill workers went on strike to demand decent working conditions as part of the nineteenth-century labor movement.⁴⁰ During the 1950s and 1960s, countless school children peacefully protested segregation and an estimated 10,000 children were arrested and jailed in Birmingham.⁴¹

Children's advocacy continues to make important contributions. Children and youth have unique perspectives on their own needs and the courage and insight to advocate for long-term policies that protect their own and our collective future.⁴² As fifteen-year-old Janine explains, "As young people, we have a voice and we need to use

³⁶ *Id.*

³⁷ *Id.*

³⁸ Barbara Bennett Woodhouse, *The Courage of Innocence: Children as Heroes in the Struggle for Justice*, 2009 U. ILL. L. REV. 1567, 1568 (2009).

³⁹ Thomas Fleming, *Young People at War*, JOURNAL OF THE AMERICAN REVOLUTION (April 25, 2013), <https://allthingsliberty.com/2013/04/young-people-at-war/>

⁴⁰ SUSAN CAMPBELL BARTOLETTI, KIDS ON STRIKE!, 111 (Houghton Mifflin, 1999).

⁴¹ Woodhouse, *supra* note 38, at 1570.

⁴² *Id.*

our voices. We're really strong as young people, and we can actually change the world, and we have to do it right now.”⁴³

The children in this case have already participated in politics to the fullest extent of their capacity under the law. *See e.g.*, Am. Compl. ¶¶ 16, 20, 35, 44, 85. They have walked over 1,600 miles to raise awareness, founded organizations, given speeches in front of local, state, federal, and global government bodies including the United Nations, visited the White House, and educated their communities about individual actions they can take – all in the name of a stable climate. *Id.*

The efforts of children to advocate for justice are heroic and important, but children are ultimately limited in their ability to directly participate in the political process to protect their rights. Children are not only future citizens and leaders; they have “present-tense rights and present-tense capacities to contribute to the common good.”⁴⁴ In recognition of these present-tense rights, courts have identified a special judicial obligation to step in to protect children against harmful government action.

II. There is a judicial role in redressing the harms to youth caused by climate change.

The majority reluctantly concluded that no judicial remedy is available to the children here. Op. 32. Rather, the children should turn to “the political branches or to the electorate at large, the latter of which can change the composition of the political

⁴³ Lange, *supra* note 24.

⁴⁴ Woodhouse, *supra* note 38, at 1589.

branches through the ballot box.” *Id.* What the majority missed was the unique circumstances of these children and the Court’s corresponding obligation to step in to protect them. While “it is most often through democracy that liberty is preserved and protected in our lives,” when the rights of individuals are violated by “the unlawful exercise of government power . . . ‘the Constitution requires redress by the courts.’” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2605 (2015).

A. Courts have a role in protecting vulnerable individuals marginalized from the political process.

The Supreme Court has repeatedly stepped in to provide remedies to vulnerable individuals marginalized from the political process, even while refraining from identifying a new suspect class or fundamental right. For example, in *Cleburne v. Cleburne Living Ctr.*, the court declined to identify developmentally disabled persons as a suspect class, but nevertheless invalidated the political decision to require a special use permit for group homes as irrational and unsupported by a legitimate state interest. 473 U.S. 432, 450 (1995). As the Court protected this historically marginalized group, Justice Thurgood Marshall noted that “history makes clear that constitutional principles of equality . . . evolve over time; what once was a ‘natural’ and ‘self-evident’ ordering later comes to be seen as an artificial and invidious constraint on human potential and freedom.” *Id.* at 466 (Marshall, J. concurring).

Again, in *United States v. Virginia*, a female high school student sought the Court’s aid when she was excluded from the Virginia Military Institute’s (VMI) citizen-soldier

program on the basis of her sex. 518 U.S. 515, 523 (1996). The Court held that VMI's male-only admission policy violates students' equal protection rights under the Fourteenth Amendment. *Id.* As Justice Ginsberg noted, “[a] prime part of the history of our Constitution . . . is the story of the extension of constitutional rights and protections to people once ignored or excluded.” *Id.* at 557.

The Court has afforded similar remedies to children excluded from the political process. In *Plyler v. Doe*, undocumented immigrant children sought the Court's aid when they were excluded from public schools. 457 U.S. 202, 205 (1982). The Supreme Court provided a remedy, noting, “more is involved in these cases than the abstract question whether [the statute] discriminates against a suspect class, or whether education is a fundamental right.” *Id.* at 202-03. The Court stepped in to protect vulnerable immigrant children regardless of the existence of a fundamental right or suspect class. *Id.* Similarly, in *Brown v. Board of Educ.*, African American children were denied admission to schools due to their race. 347 U.S. 483, 487-88 (1954). The Court held that segregation in public schools violates children's equal protection rights under the Fourteenth Amendment, again providing a remedy to vulnerable children. *Id.* at 496.

The Court has also intervened to protect children born to unmarried parents. *See Weber v. Aetna*, 406 U.S. 164, 165 (1972); *see also generally Levy v. Louisiana*, 391 U.S. 68 (1968); *Jimenez v. Weinberger*, 417 U.S. 628 (1974); *Mills v. Habluetzel*, 456 U.S. 91 (1982); *Clark v. Jeter*, 486 U.S. 456 (1988). In *Weber*, dependent unacknowledged illegitimate

children sought the Court’s aid when they were barred from recovering under Louisiana workmen’s compensation laws upon the death of their natural fathers. 406 U.S. at 165. The Court held that discrimination based on status of birth violates children’s equal protection rights under the Fourteenth Amendment. *Id.* The Supreme Court noted that, while it is “powerless to prevent the social opprobrium” inflicted upon these children, “the Equal Protection Clause does enable us to strike down discriminatory laws relating to status of birth.” *Id.* at 175-76.

As these cases demonstrate, the judicial branch plays a crucial role in protecting vulnerable and politically marginalized groups, especially children. In none of these cases did the Court hold that the vulnerable party’s only recourse was through the ballot box. Rather, “[t]he Nation’s courts are open to injured individuals who come to them” to “invoke a right to constitutional protection . . . even if the broader public disagrees and even if the legislature refuses to act.” *Obergefell*, 135 S. Ct. at 2605.

B. Courts have a special role in protecting children from government action that punishes them because of circumstances beyond children’s control.

As discussed above in *Plyler*, the Supreme Court determined that the challenged statute wrongly harmed undocumented immigrant children for their parent’s status. 457 U.S. at 207. In doing so, the Supreme Court “appropriately [took] into account [the statute’s] cost to the nation and to the innocent children who are its victims.” *Id.* at 224. Noting the long-term nature of the harm, the Supreme Court stated that “the deprivation of education takes an inestimable toll on the social, economic, intellectual,

and psychological well-being of the individual,” and therefore “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status.” *Id.* at 223.

Decades of Supreme Court jurisprudence document this special judicial role in protecting children. In *Weber*, the Court acknowledged that barring illegitimate children from collecting benefits constitutes a hardship that is “contrary to the basic concept of our system that legal burdens should bear some relationship to individual responsibility.” 406 U.S. at 175. Further, in *Brown*, the Supreme Court noted, “[t]o separate [children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” 347 U.S. at 494. The Supreme Court in *Brown* recognized that children do not have control over the color of their skin, and should not be deprived of educational opportunities solely because of their race. *See id.*

As recently as 2013, in *United States v. Windsor*, the Supreme Court considered the Defense of Marriage Act’s impact on children’s wellbeing, noting that that the Act “humiliates tens of thousands of children now being raised by same-sex couples.” 570 U.S. 744, 772 (2013). The act undermined “the integrity and closeness of their own family and its concord with other families in their community and in their daily lives.” *Id.*

Although these cases dealt with different aspects of a child's life, the unifying feature is the special role the judicial branch plays in protecting the welfare of vulnerable children, particularly when they are punished by a government action over which they have no control. Undoubtedly, climate change is a matter beyond children's control. Children lack the rights and resources needed to persuade the legislature to protect the climate. The children in the case at hand, like the children in the above cases, cannot influence the government's policies, yet suffer the direct effects. These circumstances invoke this Court's duty to protect the children.

C. This Court's role in protecting these children is even more vital because of the imminent and severe danger posed by climate change.

Providing a remedy to innocent children in no way indicates that courts must open their doors to every minor plaintiff on every issue. Rather, courts have a special judicial role when the unlawful exercise of government power violates children's rights in a way that poses lifelong harm for a matter beyond their control. The Court's role here is critical because neither children nor our planet can withstand the irreversible damage that will arise from more decades of delay.

History confirms the magnitude of harm that can flow from an erroneous abdication of judicial responsibility. It took fifty-eight years between *Plessy* and *Brown* to finally ban segregation in public facilities. *Brown*, 347 U.S. at 496; *Plessy v. Ferguson*, 163 U.S. 537, 552 (1896). Thirty years passed after *Bowers v. Hardwick*, before the Court

finally recognized the fundamental constitutional rights of same sex couples and their children. *Obergefell*, 135 S. Ct. at 2604-05; *Bowers v. Hardwick*, 478 U.S. 186, 194-96 (1986).

In the case of climate change, children do not have decades to spare. Time is running out. Not only is government action already posing permanent harm to children, “the problem is approaching the ‘point of no return.’” Op. 35 (Stanton, J., dissenting). Experts agree that rapid phasedown of greenhouse gases in the atmosphere to a target of less than 350 parts per million is imperative to restoring a stable climate and to “avert irretrievable damage to human and natural systems – including agriculture, ocean fisheries, coastlines, and fresh water supply – on which human civilization depends.”⁴⁵ Without immediate action, restoring a stable climate will become increasingly impossible.⁴⁶ “The injuries experienced by plaintiffs are the first small wave in an oncoming tsunami – now visible on the horizon of the not-so distant future – that will destroy the United States as we currently know it.” Op. 34 (Stanton, J., dissenting). Thus, it is even more important that this Court step up right now, without delay, to protect rising generations of young people who lack the political power to protect themselves.

The panel acknowledged the imminent and substantial risks of climate change, yet the majority still directed the children to the political process – a process from which they are explicitly excluded. The majority’s failure to see this paradox is error. Children,

⁴⁵ James Hansen, *et al.*, *Assessing “Dangerous Climate Change”: Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature*, PLOS ONE 4 (2013).

⁴⁶ *Id.*

even thirteen-year-old Claudia know that the “situation right now is really dire.”⁴⁷ Climate change “is a big crisis” that is “affecting our life now and it’s going to increasingly affect it in the future.”⁴⁸ Children need those with power “to take action with the power that they do have.”⁴⁹ It is imperative that this Court honor its role in protecting these young people.

CONCLUSION

This Court should grant the Plaintiffs-Appellees’ Petition for Rehearing *En Banc*.*

Dated: March 12, 2020

Respectfully submitted,

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⁴⁷ Lange, *supra* note 24.

⁴⁸ *Id.*

⁴⁹ *Id.*

* Counsel recognize the contributions of student counsel Rachael Jaffe and Sarah Quigley (University of Denver Sturm College of Law) and Elodie De Bethmann (Emory University School of Law), who participated substantially in the drafting and researching of this brief.

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(G), I certify that this Brief of *Amici Curiae* Children's Rights Advocates in Support of Plaintiffs-Appellees' Petition for Rehearing *En Banc* is prepared in a format, typeface, and type style that complies with Federal Rule of Appellate Procedure 32(a)(4)-(6) and contains the following number of words: 4079

Dated: March 12, 2020

Respectfully submitted,

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APPENDIX:

LIST OF *AMICI CURIAE* CHILDREN'S RIGHTS ADVOCATES

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The Center on Children and Families (CCF) at the University of Florida Fredric G. Levin College of Law in Gainesville, Florida, is an organization whose mission is to promote the highest quality teaching, research and advocacy for children and their families. CCF's directors and associate directors are experts in children's law, constitutional law, criminal law, family law, and juvenile justice, as well as related areas such as psychology and psychiatry. CCF supports interdisciplinary research in areas of importance to children, youth and families, and promotes child-centered, evidence-based policies and practices in dependency and juvenile justice systems. Its faculty has many decades of experience in advocacy for children and youth in a variety of settings, including the Virgil Hawkins Civil Clinics and Gator TeamChild juvenile law clinic.

The Child Rights Project (CRP) is a project of Emory Law School engaging faculty and students in researching and writing friend of the court briefs in cases of importance to children and youth. CRP's mission is to advocate for marginalized children whose voices might otherwise not be heard. Its aim is to highlight for the judiciary and the public the often unanticipated impact of court decisions on children and youth. The CRP's goal is to train new generations of lawyers in multidisciplinary research and advocacy.

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.

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2020, I electronically filed this Brief of *Amici Curiae* Children's Rights Advocates in Support of Plaintiff-Appellees' Petition for Rehearing *En Banc* with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system, which will serve this filing on all counsel in this matter.

Dated: March 12, 2020

Respectfully submitted,

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