No. A25A1689

IN THE COURT OF APPEALS OF GEORGIA

The Appeal, Inc.,

Plaintiff-Appellant,

v.

Tyrone Oliver, Shawn Emmons, and Christopher M. Carr,

Defendants-Appellees.

AMICI CURIAE BRIEF OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, THE ASSOCIATED PRESS, THE ATLANTA JOURNAL-CONSTITUTION, GEORGIA TELEVISION, LLC, AND THE GEORGIA ASSOCIATION OF BROADCASTERS IN SUPPORT OF APPELLANT

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INTRODUCTION

The public has a significant interest in accessing information about implementation of the death penalty. In Georgia and throughout the country, the press has always played a foundational role in informing the public about capital punishment—particularly when execution proceedings moved from the public square to inside prison walls. The Georgia Department of Corrections' ("GDC") restrictions limiting audio access to execution proceedings and restricting media access during the preparation of the condemned for execution impermissibly restrict the press's—and thereby the public's—ability to access timely and reliable information about those proceedings. Such access is essential to the public's understanding of how its government is operating its criminal justice system.

Access to information about execution proceedings is not only in the public interest—it is constitutionally required. As the U.S. Supreme Court recognized in *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980), and then in *Press-Enterprise Co. v. Superior Court* ("*Press-Enterprise II*"), 478 U.S. 1 (1986), the public has a qualified right of access to certain government proceedings rooted in the First Amendment to the

U.S. Constitution. Several federal courts have applied that precedent, which focuses on the history and logic behind the access right, to confirm the press's and public's right to access execution proceedings. For these reasons and those that follow, this Court should likewise recognize a constitutional right to access execution proceedings in the state of Georgia. Article I, section I, paragraph V of Georgia's Constitution, like the First Amendment to the U.S. Constitution, protects the press and public's right to access government proceedings, which necessarily includes execution proceedings, and the state of Georgia's arbitrary restrictions on that access do not pass constitutional muster.

Amici curiae the Reporters Committee for Freedom of the Press, The Associated Press, The Atlanta Journal-Constitution, Georgia Television, LLC, and the Georgia Association of Broadcasters (together, "amici") respectfully urge this Court to reverse.

ARGUMENT AND CITATION TO AUTHORITIES

I. The First Amendment and Georgia Constitution afford the press and the public a right to access government proceedings.

Article I, section I, paragraph V of the Georgia Constitution, like the First Amendment to the U.S. Constitution, guarantees "freedom of

speech and of the press." But because Georgia's Constitution separately guarantees the public's right of access to criminal trials, Ga. Const. art. I, § I, para. XI, and a constellation of Georgia statutes and rules protect the public's right of access to other kinds of judicial and government proceedings, *see, e.g.*, Ga. Unif. Super. Ct. R. ("USCR") 21 & 22 (court records and proceedings); Open Meetings Act, O.C.G.A. §§ 50-14-1 *et seq.* (other government proceedings), Georgia courts have rarely had occasion to address the scope of a public right of access to government proceedings rooted in article I, section I, paragraph V. *Cf. Atlanta J. v. Long*, 258 Ga. 410, 411 (1988) (noting it unnecessary to address constitutional right of access to court records because USCR 21 confirms the "traditional right of access"), *opinion corrected*, 377 S.E.2d 150 (Ga. 1989). Instead, when considering the breadth of rights established in article I, section I, paragraph V, Georgia courts apply "analogous First Amendment standards in the absence of controlling state precedent," *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33, 34 (1998), while acknowledging that Georgia's free speech and press guarantee provides "even broader protection" than its federal counterpart, *Statesboro Publ'g Co. v. City of Sylvania*, 271 Ga. 92, 95 (1999).

The federal framework of constitutional access to government proceedings is derived from *Richmond Newspapers*, which recognized that the public and the press have a qualified right of access to certain government proceedings rooted in the First Amendment. *See* 448 U.S. at 580 (plurality opinion). In determining whether this First Amendment right of access attaches to a particular proceeding, courts consider (i) "whether the place and process have historically been open to the press and general public" and (ii) "whether public access plays a significant positive role in the functioning of the particular process in question." *Press-Enterprise II*, 478 U.S. at 8; *see also* Section II, *infra.*

Several federal courts have applied the *Press-Enterprise II* framework to hold that the First Amendment protects the public's right to access execution proceedings. *See, e.g.*, *Cal. First Amend. Coal. v. Woodford*, 299 F.3d 868 (9th Cir. 2002); *Associated Press v. Otter*, 682 F.3d 821 (9th Cir. 2012); *First Amend. Coal. of Ariz., Inc. v. Ryan*, 938 F.3d 1069 (9th Cir. 2019); *Phila. Inquirer v. Wetzel*, 906 F. Supp. 2d 362 (M.D. Pa. 2012).

As these cases illustrate, contrary to the trial court's view, the First Amendment right of access recognized in *Richmond Newspapers* and

Press-Enterprise II is not limited to "criminal trial proceedings." Order at 4, *The Appeal, Inc. v. Oliver*, No. 2024CV003010 (Fulton Cnty. Super. Ct. Nov. 22, 2024) (hereinafter "Order"). Although *Richmond Newspapers* involved a criminal trial, the decision was premised on the principle that "[t]he First Amendment goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which members of the public may draw." *Richmond Newspapers*, 448 U.S. at 575–76 (plurality opinion). Put differently, the First Amendment "has a *structural* role to play in securing and fostering our republican system of self-government" because "valuable public debate—as well as other civic behavior—must be informed." *Id.* at 587 (Brennan, J., concurring). Because the same principles apply to other kinds of judicial and government proceedings, "the distinction between trials and other official proceedings is not necessarily dispositive, or even important, in evaluating the First Amendment issues." *Press-Enter. Co. v. Superior Court* ("*Press-Enterprise I*"), 464 U.S. 501, 516 (1984) (Stevens, J., concurring).

Accordingly, courts have utilized the *Press-Enterprise II* framework and applied it to find that a First Amendment right of access attaches to

a variety of judicial and non-judicial proceedings. Courts have recognized that the First Amendment right of access attaches to pre- and post-trial criminal proceedings, *see, e.g.*, *United States v. Ochoa-Vasquez*, 428 F.3d 1015, 1028 n.14 (11th Cir. 2005) (collecting cases), including post-conviction proceedings like sentencing, *see, e.g.*, *United States v. Santarelli*, 729 F.2d 1388, 1390 (11th Cir. 1984). Courts have also recognized the right of access attaches to civil proceedings, particularly where those proceedings "pertain to the release or incarceration of prisoners and the conditions of their confinement," *Newman v. Graddick*, 696 F.2d 796, 801 (11th Cir. 1983), as well as to non-judicial proceedings, *see*, *N.Y. C.L. Union v. N.Y.C. Transit Auth.*, 684 F.3d 286, 298–99 (2d Cir. 2012) (administrative proceedings); *Whiteland Woods, L.P. v. Twp. of W. Whiteland*, 193 F.3d 177, 181 (3d Cir. 1999) (local government meetings); *Detroit Free Press v. Ashcroft*, 303 F.3d 681, 709 (6th Cir. 2002) (deportation proceedings).

For its part, the Georgia Supreme Court holds that the public's right of access to criminal proceedings under article I, section I, paragraph XI of the Georgia Constitution attaches to "pre-trial, mid-trial, and post-trial hearings as to the trial itself." *R. W. Page Corp. v.*

Lumpkin, 249 Ga. 576, 578–79 (1982). It has also recognized that the constitution requires that members of the press and public be given an opportunity to challenge access restrictions in juvenile proceedings, although no "historically-based constitutional presumption of openness" comparable to that of criminal trials was applicable to those proceedings. *See Fla. Publ'g Co. v. Morgan*, 253 Ga. 467, 472 (1984). More recently, the Court described the *Press-Enterprise II* test as one applying to "government proceedings"—not just judicial proceedings. *Owens v. Hill*, 295 Ga. 302, 316 (2014). And the Court there recognized "there has been a tradition of allowing at least some public access to execution proceedings." *Id.*

Because executions are a "government proceeding," *Press-Enterprise II* is the appropriate framework to apply here. Neither *Pell v. Procunier*, 417 U.S. 817 (1974), nor *Houchins v. KQED, Inc.*, 438 U.S. 1 (1978), requires otherwise. *Pell* involved a challenge to a prison regulation that restricted the press's ability to interview specific inmates face-to-face. 417 U.S. at 819–20. *Houchins* involved a challenge to a jail's denial of a media request for permission to inspect and take pictures in particular cells within the jail. 438 U.S. at 3–4.

Unlike in *Pell* and *Houchins*, Appellant is not seeking access to "prisons for purposes of information gathering" about prison operations. Order at 2. Instead, Appellant is seeking to vindicate the public's right to access a particular kind of government proceeding, which takes place within a prison. Executions are unlike anything that happens at prisons on a daily basis—they are closely circumscribed by law and supervised by all levels of the judiciary, *see, e.g.*, O.C.G.A. § 17-10-33 (procedure for issuing death sentences); O.C.G.A. § 17-10-35 (appeals); O.C.G.A. § 17-10-42 (requiring certificate to court of execution of sentence), as well as multiple levels of the state government, Ga. Dep't of Corr., Diagnostic and Classification Prison Lethal Injection Procedures § II.D.10 (2012), https://perma.cc/ZMS7-85EX (providing procedure for executions and, in particular, requiring confirmation from the Attorney General or his designee for Warden to proceed). The fact that executions occur at a prison does not and should not supplant the *Press-Enterprise II* analysis. Any other result would allow the government to render *Press-Enterprise II* a dead letter by moving criminal trials behind prison walls.

By the same token, Appellant is not seeking to secure "special access to information not available to the public generally" about prisons.

Contra Pell, 417 U.S. at 833–34 (citation omitted); *Houchins*, 438 U.S. at 11. Instead, Appellant is seeking to vindicate the public's right of access to a proceeding where preferential access is required because the government's choice of forum for those proceedings imposes space constraints on who may attend. As *Richmond Newspapers* itself recognized, "reasonable restrictions on general access" to government proceedings, "including preferential seating for media representatives," are permissible and have long been employed to apportion access. 448 U.S. at 581 n.18 (plurality opinion). These kinds of preferential access restrictions simply confirm the press function "as surrogates for the public" so that they may "report what people in attendance have seen and heard" in scenarios where more general access may be impractical. *See id.* at 573 (plurality opinion).

For these reasons, the *Press-Enterprise II* framework is the appropriate test to evaluate limitations of access to execution proceedings because it considers not just whether the "place" of a government proceeding has historically been open, but whether the "process" itself has traditionally been accessed by the public, and whether such "public

access plays a significant positive role in the functioning of the particular process in question." *Press-Enterprise II*, 478 U.S. at 8.

II. Under the *Press-Enterprise II* framework, there is a presumptive, constitutional right of access to execution proceedings.

A. Executions in the United States generally, and Georgia specifically, have historically been open to the public.

The first prong of the *Press-Enterprise II* framework, which analyzes "whether the place and process have historically been open to the press and general public," is satisfied with respect to execution proceedings. 478 U.S. at 8. "In early America, as in England, public hangings were the most common method of execution." Sheherezade C. Malik & D. Paul Holdsworth, *A Survey of the History of the Death Penalty in the United States*, 49 U. Rich. L. Rev. 693, 696 (2015); *accord* Stuart Banner, THE DEATH PENALTY, AN AMERICAN HISTORY 24 (2002) (explaining public hangings were "as conspicuous as any event could possibly be"). In Georgia, they continued well into the nineteenth century. *See, e.g.*, Pl.'s Am. Compl. at 12–15 & Ex. 2, *The Appeal, Inc. v. Oliver*, No. 2024CV003010 (Fulton Cnty. Super. Ct. Mar. 14, 2024)

(newspaper clippings recounting public executions); *see also Owens*, 295 Ga. at 316.

States began shifting executions away from public squares and into jailhouse yards in the mid- to late- nineteenth century. *See* Banner, *supra*, at 146. Consistent with the practice of other states, however, members of the press were routinely permitted to observe hangings in Georgia—even after the passage of laws in 1893 and 1859 to curb public square executions—to document them on the public's behalf. *See, e.g.*, *Interview with Sheriff Scarborough About the Murderer*, Athens Banner, Sept. 23, 1890, at 4, https://perma.cc/2X5W-6PUY (noting judge had ordered private execution but was to allow reporters to be admitted); *Around in Georgia*, Columbus Daily Times, May 6, 1883, at 2, https://perma.cc/MVG8-HKL9 (noting private executions were "barricaded from all eyes save those of the officers, the spiritual adviser, newspaper reporters and invited guests"); *Robinson Dies on the Gallows*, Marietta J., Sept. 6, 1900, at 1, https://perma.cc/9AFK-9BBM (describing "several newspaper men" in "the party within the enclosure" at 1900 hanging); *Bullard Hanged; No Mercy Shown*, Atlanta Georgian (and News), Mar. 2, 1907, at 1, https://perma.cc/QY4P-KZNU (describing

"newspaper men present [] step[ping] closer so they could hear" at 1907 hanging). Thus, even "when public executions were first abolished in America, the press was still allowed to attend." *Woodford*, 299 F.3d at 876.

Members of the press continued to be granted access to executions when states shifted from hangings to electrocution in Georgia and elsewhere. When the first man was executed by electric chair in New York in 1890, the press was there to document the proceeding on the public's behalf. *See Far Worse Than Hanging*, N.Y. Times, Aug. 7, 1890, at 1, https://nyti.ms/4fnbfOt. The same was true for the first execution by electric chair in Georgia in 1924, *see* John W. Hammond, *Electric Chair Takes Its First Life in Georgia*, Macon Daily Telegraph, Sept. 14, 1924, at 1 & 7, https://perma.cc/FTM7-ZN9L & https://perma.cc/65XS-RL89, and of many that took place thereafter. *See, e.g.*, *1 Hour, 21 Minutes Taken for Largest Ga. Mass Execution*, Atlanta Daily World, Dec. 10, 1938, at 1, https://perma.cc/FWK2-3RAT; *Murderer Electrocuted in Georgia After Appeals Fail*, N.Y. Times (Dec. 13, 1984), https://perma.cc/45K8-3BCE.

Finally, media witnesses attended Georgia's first execution by lethal injection and, as they have long done, provided an account of the proceedings to the public. *See* Elliott Minor, *Georgia conducts first execution by injection*, Rome News-Trib. (Oct. 25, 2001), https://perma.cc/MHJ3-2F5U. The press continues to retain access to execution proceedings conducted in Georgia, albeit subject to limitations imposed by GDC including the arbitrary restrictions on access to the preparatory stage and audio throughout the proceeding.

All told, there has long been a tradition of "allowing at least some public access to execution proceedings," particularly press access. *Owens*, 295 Ga. at 316. As explained in *California First Amendment Coalition v. Woodford*, the fact that "only select members of the public attend" an execution does not erode its public nature because "these official witnesses act as representatives for the public at large." 299 F.3d at 876; *see also Phila. Inquirer*, 906 F. Supp. 2d at 370 (finding experience test was satisfied in light of tradition that "witnesses were still invited to view the entirety of the hanging" even after abolition of fully public executions). This tradition of access satisfies the first prong of the *Press-Enterprise II* framework.

B. Press access to executions plays a significant positive role in informing the public about execution proceedings and the operations of the criminal justice system.

The second prong of the *Press-Enterprise II* framework, which analyzes "whether public access plays a significant positive role in the functioning of the particular process in question," is likewise met with respect to execution proceedings. 478 U.S. at 8. In the context of capital punishment, the public's interest in access is self-evident. Press and public observers at executions are a significant positive factor because their presence helps ensure that executions are competently and lawfully administered, and "provid[es] an outlet for community concern, hostility, and emotion," *Richmond Newspapers*, 448 U.S. at 571 (plurality opinion).

Information about how executions are carried out is of particular value in light of the Eighth Amendment's prohibition on cruel and unusual punishment. Indeed, "[a]n informed public debate is critical in determining whether execution by lethal injection comports with the evolving standards of decency which mark the progress of a maturing society." *Woodford*, 299 F.3d at 876 (citation and internal quotation marks omitted). This function is confirmed by historical practice: press

access to executions has long played a foundational role in informing public debate about the death penalty. By way of just a few examples:

- In 1906 in Minnesota, members of the media reported on the botched hanging of William Williams, which lasted fourteen minutes. Ben Welter, *Feb. 13, 1906: Minnesota's Last Execution*, Minnesota Star Trib. (May 1, 2014), https://perma.cc/WLJ7-2RTS. These reports "ignited a movement . . . to abolish capital punishment," and governors commuted every death sentence imposed in Minnesota until the death penalty was abolished five years later. John D. Bessler, *Televised Executions and the Constitution: Recognizing a First Amendment Right of Access to State Executions*, 45 Fed. Commc'ns L. J. 355, 364 & n.42 (1993).

- In Arizona, media witness accounts of the "gruesome" prolonged death of a man executed by gas chamber in 1992 prompted the state to adopt lethal injection as its execution method. Bob Baker & Laura Laughlin, *Arizona Executes Killer; State Gripped by Grisly Accounts*, L.A. Times (Apr. 7, 1992), https://perma.cc/M6VA-YYMN; *Gruesome Death in Gas Chamber Pushes Arizona Toward Injections*, N.Y. Times (Apr. 25, 1992), https://perma.cc/CP4H-ETP5.

- There was significant public debate about whether Oklahoma City bomber Timothy McVeigh's execution at a federal penitentiary at Terre Haute should be broadcast to the broader public. *See Ashcroft OKs Limited Broadcast of McVeigh Execution*, L.A. Times (Apr. 12, 2001), http://bit.ly/3IURP7d. Ultimately, the Justice Department determined that survivors and family members of the hundreds of victims would be allowed to attend via closed-circuit television. *See* Christopher S. Wren, *McVeigh Is Executed for Oklahoma City Bombing*, N.Y. Times (June 11, 2001), http://bit.ly/3UbwOaT. In addition to family members, media witnesses attended and played a critical role as surrogates for the broader public by providing an independent account of the execution, which was the federal government's first execution by lethal injection. *Compare McVeigh Execution*,

C-SPAN (June 11, 2001), http://bit.ly/4mnD2k0, at 6:35 (media witness accounts), *with id.* at 24:52 (victim impact statements).

As states have faced increasing difficulty obtaining lethal injection drugs and shifted to more experimental methods of execution, the role of the press as the public's eyes—and ears—has never been more important. In 2014, a reporter for the *Arizona Republic* was present for Arizona's execution of Joseph Wood, who did not die for nearly two hours after being injected with a controversial cocktail of drugs. Michael Kiefer, *Reporter describes gruesome scene of Ariz. execution*, USA Today (July 24, 2014), https://perma.cc/84NM-SRF5. A news reporter's account described how Wood "gulped like a fish on land" over 640 times, which the reporter was able to count by ticking the gulps on a piece of paper with a pencil as he saw them. *Id.* This prompted a moratorium on executions in that state that lasted until 2022. Javier Soto & Brittney Barba, *History of pauses on executions in Arizona since 2014*, ABC15 Ariz. (Mar. 19, 2025), https://perma.cc/J62G-GHWU.

In Alabama, media witnesses reported that Alan Miller, who was executed by nitrogen hypoxia in 2024, was "jerking and shaking, struggling against the restraints," and gasping for air with his eyes open, "staring at the ceiling and darting back and forth" for about two minutes

before he stopped moving, and that he continued to gasp for breath for five or six minutes thereafter. Lauren Gill, *"Agony" and "Suffering" as Alabama Experiments With Nitrogen Executions*, The Intercept (Oct. 8, 2024), https://theintercept.com/2024/10/08/alabama-nitrogen-gas-execution-alan-miller/. According to Alabama's attorney general, the execution "progressed as planned. After Miller appeared to lose consciousness, his body took some agonal breaths and made slight movements associated with the dying process." *Id.* The contrast between the media witnesses' accounts and the government's illustrates the need for neutral observers to inform the public about how executions take place.

In Georgia, too, information about executions—and in particular, audio of executions—has played a critical role in informing public debate surrounding death penalty policy. In 2001, previously undisclosed tape recordings of the State's executions by electrocution performed from 1983 to 1998 were broadcast nationally, including electrocutions of Larry Lonchar and of Alpha Otis Stevens, both of which had to be "reinitiated." Sara Rimer, *Sounds of the Georgia Death Chamber Will Be Heard on Public Radio*, N.Y. Times (May 2, 2001), https://perma.cc/G9M2-RSG4.

Months after the tapes were released, the Georgia Supreme Court ruled that "death by electrocution . . . violates the prohibition against cruel and unusual punishment." *Dawson v. State*, 274 Ga. 327, 335 (2001). The same year, the State carried out its first execution by lethal injection. Clayton Hampton, Ga. Dep't of Corr., *History of Executions in Georgia* 3 (Mar. 31, 2024), https://perma.cc/22CX-R3RV (describing passage of HB 1284 the year before and its implementation following the *Dawson* decision).

As the above examples illustrate, information about how the death penalty is carried out—including audio information—plays a significant positive role in the functioning of execution proceedings, satisfying the second prong of the *Press-Enterprise II* analysis. Without sufficient access to execution proceedings, the press cannot fulfill their function "as surrogates for the public" at those proceedings. *Richmond Newspapers*, 448 U.S. at 573 (plurality opinion). In light of the long-rooted historical tradition of providing press access to executions as the public's surrogate and the significant positive role that press access plays in the functioning of execution proceedings, the trial court's decision should be reversed.

III. Georgia's restrictions on press access to executions should be subjected to strict scrutiny, but at a minimum, must be reasonably related to a legitimate penological interest.

Although the press have historically enjoyed a right of access to execution proceedings and that access has served a positive role in their functioning, GDC imposes limits on audio access to executions and limits observers to only one media monitor during the preparation stage of the execution. The trial court did not subject these restrictions to any degree of scrutiny, and instead summarily concluded that vague "countervailing interests of privacy, confidentiality, and security" justified GDC's restrictions. Order at 7. That was error.

Pursuant to First Amendment precedent, where a right of access attaches under the First Amendment, that right can only be overcome by an "overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Press-Enterprise II*, 478 U.S. at 9 (citation omitted). That is the appropriate standard to apply to evaluate the constitutionality of GDC's restrictions on access in this case—not the more deferential standard sometimes applies to prison regulations that affect constitutional rights derived from *Turner v. Safley*, 482 U.S. 78, 86 (1987). *Compare Phila.*

Inquirer, 906 F. Supp. 2d at 372 (applying strict scrutiny), *with Woodford*, 299 F.3d at 878 (applying more deferential standard to execution proceedings). The *Turner* framework applies "*only* to rights that are inconsistent with proper incarceration." *Johnson v. California*, 543 U.S. 499, 510 (2005) (citation and internal quotation marks omitted). The public's right of access to executions is not such a right. Executions are a rarely held, precisely scheduled, and time-limited proceeding—not a prison regulation applicable to prison security and inmate conditions. Because compliance with the press's and the public's First Amendment right of access is "consistent with proper prison administration," *id.* at 511, strict scrutiny is the appropriate framework.

Under either framework, however, courts have reasoned that generalized safety, privacy, and confidentiality concerns are insufficient to justify restrictions on access to execution proceedings, in part because those interests can typically be accommodated by allowing execution team members to wear surgical garb or take other affirmative steps to conceal their identities without burdening the constitutional right of access. *Compare Phila. Inquirer*, 906 F. Supp. 2d at 373 (rejecting safety interest because the state could readily take steps to conceal prison

personnel's "identifying characteristics," such as wearing surgical garb), *with Woodford*, 299 F.3d at 884 (rejecting safety concern as "speculation . . . not borne out by actual events").

Federal courts have invalidated restrictions similar to the ones at issue here. Because the constitutional right of access has historically attached to the "entire execution process from start to finish," *Woodford*, 299 F.3d at 871, restrictions on access to the preparation stages have been invalidated, *see Otter*, 682 F.3d at 823–24 (requiring state to provide access to portions of execution including "entry into the execution chamber, through the insertion of intravenous lines"). And, because the right of access also includes the "right to hear the sounds of the entire execution process," restrictions on audio access have also been invalidated. *See First Amend. Coal. of Ariz.*, 938 F.3d at 1076 (requiring state to provide audio access throughout execution).

GDC's restrictions on access at a minimum warrant much closer scrutiny than was applied by the trial court which, as Appellant explains, *see* Appellant's Br. at 27–29, is not appropriate for resolution at the motion to dismiss stage. Amici accordingly urge this Court to reverse the trial court's decision.

CONCLUSION

For the foregoing reasons, amici respectfully urge this Court to reverse.

This submission does not exceed the word count limit imposed by Rules 24 and 27(a). It contains 4,153 words excluding the parts of this brief exempted by Rule 24(f)(3).

Respectfully submitted this 12th day of September, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that, contemporaneously with this filing, I have caused a true and correct copy of the foregoing to be served on the following counsel of record by U.S. Mail:

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