No. 16-60477

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

RIMS BARBER; CAROL BURNETT; JOAN BAILEY; KATHERINE ELIZABETH DAY; ANTHONY LAINE BOYETTE; DON FORTENBERRY; SUSAN GLISSON; DERRICK JOHNSON; DOROTHY C. TRIPLETT; RENICK TAYLOR; BRANDILYNE MANGUM-DEAR; SUSAN MANGUM; JOSHUA GENERATION METROPOLITAN COMMUNITY CHURCH, Plaintiffs-Appellees,

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GOVERNOR PHIL BRYANT, STATE OF MISSISSIPPI; JOHN DAVIS, EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES, Defendants-Appellants.

(Caption continued on inside cover)

On Appeal from the United States District Court for th96D003 BDC /C2_0 14.04 Tf-219.29 -22.8 Td[@0B300B300B300B39.0

Consolidated with No. 16-60478

CAMPAIGN FOR SOUTHERN EQUALITY; THE REVEREND DOCTOR SUSAN HROSTOWSKI, Plaintiffs-Appellees,

v.

PHIL BRYANT, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF MISSISSIPPI; JOHN DAVIS, IN HIS OFFICIAL CAPACITY AS EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES, Defendants-Appellants. Table of Contents

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Supplemental Statement of Interested Parties

Pursuant to Fifth Circuit Rule 29.2, the following persons have an interest in this amicus brief:

Amici curiae:

Table of Authorities

Statutes	
Miss. Code Ann. § 11-62-1 et seq	1

Dominic Holden, Transgender Teen Killed in Mississippi , BuzzFeed (June 22, 2015, 5:21 PM), https://www.buzzfeed.com/dominicholden/transgender-teen- killed-in-mississippi?utm_term=.iiA187wPJ#.aiw4Mo86m10
Harold Gater, Anti-gay Graffiti Found in Downtown Jackson Park, Clarion-Ledger (Sept. 23, 2014, 9:23 AM), http://www.clarionledger.com/story/news/local/2014/09/23/anti- gay-graffiti-in-jackson-park/16091389/11
Joseph G. Kosciw et al., GLSEN, The 2015 National School Climate Survey (2016), http://www.glsen.org/article/2015- national-school-climate-survey
Justin Mitchell & Margaret Baker, Sheriff: Navy Seaman Accused of Robbing, Stabbing Transgender Woman, SunHerald (July 25,

Statement of Identity, Interest, and Authority to File

I. Amici

Amici comprise LGBT youth and adults who know them well: a parent of a transgender girl, teachers who sponsor student clubs for LGBT youth and their allies, and counselors who provide mental health services to LGBT youth in Mississippi. LGBT is an umbrella term that refers to individuals who identify as lesbian, gay, bisexual, or transgender as well as other

norms regarding gender and sexuality.

Amici have an interest in this case because H.B. 1523 (Miss. Code Ann. § 11-62-1 et seq) enshrines into law the reality that LGBT youth do not and will not enjoy protection from an interest in ensuring that HB 1523 is declared unconstitutional and void.

A. ODULRQ 2.6XOOLYDQ

is an eighteen-year-old gay woman and recent past president of her Mississippi Straight Alliance (GSA), a student club for LGBT students and their allies that has been sponsored for several years by amicus curiae Sommer Sneed Husbands, introduced infra.

B. Jess Bennett

Jess Bennett is a twenty-one-year-old bisexual student at Delta State University in Cleveland, Mississippi. Mr. Bennett currently s GSA, sponsored by

amicus curiae Dr. David Baylis, Ph.D., introduced infra. He attended high school in Clinton, Mississippi.

C. Silas Griffith

Silas Griffith is a twenty-one-year-old student at Delta State University. Silas identifies as transgender and nonbinary, meaning that Silas identifies neither as male nor female. Silas has experienced severe discrimination and harassment while growing up in Mississippi.

counseling psychology from the University of Southern Mississippi in 1993. She is a member of the Association for Lesbian, Gay, Bisexual, and Transgender Issues in Counseling.

I. Dr. George Beals, Ph.D. LPC-S NCC

Dr. George Beals, Ph.D. LPC-S NCC, is a licensed professional counselor with a private practice in Cleveland, Mississippi. Dr. Beals has treated approximately seven LGBT youth in the past year about 13% of his practice. Dr. Beals is also an assistant professor in the Department of Counselor Education and Psychology at Delta State University. He received his master s in community counseling from the University of Alabama at Birmingham in 1995, and his doctorate in

Rule 29(c)(5) Statement

brief in whole or in part, no party

or par s counsel contributed money that was intended to fund preparing or submitting this brief, and no person other than the amici curiae or their counsel contributed money that was intended to fund preparing or submitting this brief.

Summary of Argument

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LGBT youth share this sentiment about

their home state. H.B. 1523 codifies it into law.

Even prior to the introduction of H.B. 1523, LGBT youth used here to refer to individuals of primary school, secondary school, and college age endured discrimination based at least in part on their sexual orientation, gender identity, or gender expression. Some have been beaten by family members after coming out of the closet. Some have

Some have been turned

away or referred to conversion therapy by counselors when they sought mental health services.

This constant barrage of rejection, harassment, and even violence causes severe levels of anxiety, stress, and depression in many LGBT youth. Some hide deep in the closet, disclosing their identities to no one and isolating themselves from peers and teachers for fear of excessive attention and the dangers that could come. Others are singled out and publicly shamed by classmates, teachers, and administrators. LGBT youth already are vulnerable, and H.B. 1523

shatters even the hope of state protection from discrimination. H.B. 1523

identities and by seeking out safe, insular groups of friends and trusted adults for support.

LGBT youth in Mississippi experience violence and threats of violence. See, e.g, L.D. Thompson, Transphobia in Mississippi , Huffington Post (May 23, 2016, 5:22 PM), http://www.huffington post.com/Id-thompson/transphobia-in-mississipp_b_10096474.html (last

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Amici, or the

students they work with, have experienced violent treatment and threats because of their gender identity and sexual orientation. Marion in

Bred by an Ugly Past, CNN (July 22, 2013, 9:31 PM), http://www.cnn.com/2013/07/20/us/mississippi-murder-mystery/. They can find death threats against LGBT individuals in public, too. See, e.g, Anti-gay Graffiti Found on Downtown Building , Clarion-Ledger (Jan. 16, 2015, 4:45 PM), http://www.clarionledger.com/story/news/2015/01/ 16/anti-gay-graffiti-found-on Wolfe, Building LGBT Teen, Business Alliances, Jackson Free Press (Mar. 4, 2015, 10:32 AM), http://www.jacksonfreepress.com/ news/2015/mar/04/building-lgbt-teen-business-alliances/ (last visited

I was called a wannabe dyke; a wannabe boy; a lesbian; a freak; an alien; a he-she. Silas Griffith, a college student in Mississippi, recalls how classmates in high school would search for images of transgender people online and make fun of them, knowing full well that Silas was nearby and could hear them. Students gave counselor in Ridgeland, Mississippi, recalls that no one intervened when one of her LGBT clients was tormented at school.

cannot recall ever seeing someone in high school punished for homophobic speech, and felt that many teachers secretly agreed with these comments.

When school officials do intervene, LGBT students are often punished along with their bullies for defending themselves, thus discouraging LGBT youth from standing up for themselves. Ms. Husbands recalls that one of her students stood up to his bullies by lobbing verbal insults their way after they made fun of him. He, along with his aggressors, received several days of in-school suspension. When Ms. Husbands asked why he did not explain that he had been the victim, he responded that it would not have helped him. See also id. at

The most common reasons that LGBTQ students did not report incidents of victimization to school staff were doubts that effective intervention would occur, and fears that reporting would make the situation worse.

LGBT youth hear their teachers express strong negative opinions about homosexuality, including condemnation of homosexuality as an

abomination. See, e.g, SPLC Reaches Settlement with Mississippi

dragged to counselors, like Tony Caldwell, a clinical social worker in Oxfo

George Beals, a counselor in Cleveland, Mississippi, put it, Mississippi LGBT youth learn when, where, and how to open their mouths and when, where, and how to go invisible. See also Zachary Orsborn, , 'RQ·W Feel Welcome in Mississippi, Jackson Free Press (Mar. 28, 2014, 6:25) http://www.jacksonfreepress.com/news/2014/mar/28/i-dont-feel-PM), welcome-mississippi/ (last visited Dec. 17, 2016) ve had to cloak ourselves, don our straight-boy-who-has-to-play-sports costume (not found at Walmart), learn how to stand like a man, keep our wrists up, our voices deep and emotions void. Ms. Husbands has observed how some LGBT youth create separate identities: one they present to the public and the other they present only to people with whom they feel truly comfortable. See also id. re gay and living in Mississippi, you have to play a character. Others, as Mr. Bennett recalls of acquaintances, even take on anti-LGBT personas to further conceal their identities.

At school, many LGBT youth are careful not to draw attention to themselves. Some choose not to participate actively in class or avoid building relationships with teachers and administrators. As one might expect, this self-imposed isolation

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counselors who choose to do so based on the specific beliefs protected by the statute. H.B. 1523, 2016 Leg., Reg. Sess. §§ 3(4), 9(3)(a) (Miss. 2016), Miss. Code Ann. §§ 11-62-5(4), 11-62-17(3)(a). H.B. 1523 also threatens to harm LGBT children who have benefited from the rare occasions in which school officials intervene to , a parent in the

Mississippi Delta, told his daug

Doe was transgender, the principal admitted ignorance but expressed a willingness to learn and to accommodate Doe. She informed faculty and staff that Doe would be accommodated, given the requirements of Title IX and now

mistake) referred to by her preferred name and female pronouns.

worries that these accommodations could be terminated at any moment, and that administrators at the middle school and high school Doe will eventually attend will not similarly accommodate her. In particular, he is fearful that H.B. 1523 will encourage school administrators who hold the particular religious beliefs specially protected by the law to dig their heels in, foreclosing the possibility for

trans-children-balance-mississippi/ (last visited Dec. 17, 2016) On Tuesday, May 24, the nine-member Mississippi Board of Education decided unanimously to d s Title IX guidelines to protect transgender students from discrimination just days after the state superintendent had said the state would follow them.

Mr. Caldwell has also observed conversations that could foster better treatment of LGBT students in Mississippi, and is concerned that H.B. 1523 will put an end to this positive dialogue. His students, whom he is helping prepare for a career in counseling, fiercely debated whether H.B. 1523 permits counselors to violate the American Ethics and the National Association of

Social Workers . Mr. Caldwell has seen that, unlike any

H.B. 1523 amplifies the message many LGBT youth in Mississippi

Bennett put it, H.B. 1523 is a prime example of what causes many LGBT youth in Mississippi to feel that their society is actively trying to s have expressed an

youth. See, e.g, Arielle Dreher, Governor Will Join Multi-State Transgender Bathroom Lawsuit Eve Q , I 6 W D W Hack SonQF Me Press (May 27, 2016, 12:30 PM), http://www.jacksonfreepress.com/news/ 2016/may/27/governor-will-join-multi-state-transgender-bathroo/ (last visited Dec. 17, 2016).

Amici and their classmates, students, clients, and friends closely followed the passage of and legal challenges to H.B. 1523. Ms.

middle school students, downloading the law and the briefs filed at the district court in an attempt to understand the

youth shared a range of reactions, including shock, fear, disappointment, and a sense of inevitability.

If they did not want to leave Mississippi before, many LGBT youth

and continue to apply to colleges outside the South, though some may not be able to leave because of financial dependence or strong emotional ties. plans to move out of Mississippi to a safer state with his children if H.B. 1523 takes effect; he would not wait to see if all of his children can thrive and remain safe in Mississippi. Others have been leave

Mississippi, believing it to be in her best interest after the passage of H.B. 1523. Some, as Ms. Sigrest and Mr. Caldwell observed, choose to stay because, although their current environment seems dead set on rejecting them, it is still what is most familiar to them. And still others, like Silas, are in no position to leave the financial or emotional support they find in friends or even parents despite the potential for supportive communities elsewhere.

Conclusion

LGBT youth already are vulnerable to discrimination based on their identities and they suffer tremendously for it. H.B. 1523 has demoralized many of them even further, and undermined any hope that their state might seek to protect them. The law empowers those who choose to discriminate and sends a clear warning to LGBT youth:

For these reasons, amici respectfully request that this Court affirm the district court

Respectfully submitted.

David C. Dinielli

/s/ Diego A. Soto Diego A. Soto SOUTHERN POVERTY LAW CENTER 400 Washington Ave. Montgomery, AL 36104 (334) 956-8200 david.dinielli@splcenter.org diego.soto@splcenter.org

January 12, 2017

Counsel for A mici LGBT Youth in Mississippi and their Parents, Teachers, and Counselors Certificate of Service

I hereby certify that I have served an electronic, redacted copy of

the forgoing brief on the following, who agreed to waive service of paper

copies pursuant to Fifth Circuit Rule 31.1, this January 12, 2017:

Drew L. Synder OFFICE OF THE GOVERNOR P.O. Box 139, Jackson, Mississippi 39205 drew.snyder@governor.ms.gov

Kevin H. Theriot ALLIANCE DEFENDING FREEDOM 15100 N 90th Street, Scottsdale, Arizona 85260 ktheriot@ADFlegal.org; mdonnelly@ADFlegal.org; kbrannon@ADFlegal.org

Jonathan F. Mitchell D. John Sauer JAMES OTIS LAW GROUP, LLC 12977 N Forty Drive, Ste. 214, St. Louis, Missouri 63141 jmitchell@amesotis.com; jsauer@amesois.com; a-2.001(sa6(II u996m7p w(.)4.0p w(.)496m7p w(3.006(n)p 0 -16.83 Fad(,)TjMN Alysson Mills Fishman Haygood LLP

Certificate of Compliance

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 4,094 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Fifth Circuit Rule 32.2.

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Century Schoolbook.

> <u>/s/ Diego A. Soto</u> Diego A. Soto Counsel for Amici LGBT Youth in Mississippi and their Parents, Teachers, and Counselors

January 12, 2017