

NORTH CAROLINA COURT OF APPEALS

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In the Matter of J.G.

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From GUILFORD COUNTY  
No. 97 J 697

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**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

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Pursuant to Rule 28(i) of the North Carolina Rules of Appellate Procedure, the North Carolina Justice Center, Carolina Legal Assistance, and the Pulpit Forum of Clergy, Greensboro and Vicinity (collectively herein as "Amici") respectfully move the Court for leave to file an *amicus curiae* brief in support of the Respondent J.G. in the above-captioned matter.

**I. Identity Of The Amici And The Nature Of Their Interest In This Appeal**

**A. North Carolina Justice Center**

The North Carolina Justice Center ("Justice Center") is a non-profit legal advocacy organization created in 1996 that provides legal assistance in civil matters to poor people, in a wide variety of substantive areas. The Justice

Center's mission is to eliminate poverty and its effects on North Carolina residents and communities and to ensure justice and fair treatment for all.

Ensuring North Carolinians have the tools to lift themselves out of poverty is critical and a large part of the Justice Center's work. Owning and building equity in a home is the pathway for most families to save and plan for a better future for themselves and their children. Failing to take all steps possible to protect essentially the only asset of J.G. in this matter is not in his best interest and will quite frankly set a dangerous precedent for other children who have suffered for too long and find themselves with little opportunity to build a better future.

**B. Carolina Legal Assistance**

Carolina Legal Assistance ("CLA") is a private, non-profit disability law project, which has represented clients with mental disabilities since 1978. It is CLA's mission to create and improve access to appropriate services and treatment for children and adults with mental disabilities through individual and systems advocacy. Serving children and youth is a priority for CLA, and in recent years the legal staff has assisted hundreds of low-income families in their quest for appropriate services. Toward the goal of expanding services, CLA also develops special projects intended to improve access to and quality of services for

individuals with special needs, especially children. The availability of appropriate services for children is crucial for them to reach their true potential and achieve success.

**C. The Pulpit Forum of Clergy, Greensboro and Vicinity**

The Pulpit Forum of Clergy, Greensboro and Vicinity ("Pulpit Forum") is a Greensboro, North Carolina, ministerial alliance composed of over 122 African American congregations of varying sizes and denominations. Established in 1976, the Pulpit Forum seeks justice for those who are economically and socially deprived of benefits at the hands of government, businesses, or corporations. The Pulpit Forum intervenes and advocates on behalf of those individuals in the Greensboro area who are unable to speak for themselves.

The Pulpit Forum seeks to protect the best interests of J.G. and thousands of other children in the foster care system in North Carolina, by ensuring that the children receive equal treatment and are given every opportunity to succeed as adults. Adequate housing and the protection of a child's assets allows the child to have tools to begin to create a better life after leaving the foster care system. Failure to protect assets not only deprives a child of a valuable resource but also creates another obstacle to the child's already complicated and difficult life.

## II. Need For An Amicus Curiae Brief

The Amici respectfully submit that the Court would benefit from an *amicus curiae* brief supporting Respondent J.G. and examining the North Carolina policy implications raised in this matter. While the brief would touch upon some of the broad, national policy concerns under *Washington State v. Keffeler*, 537 U.S. 371 (2003), the primary focus would be on the negative impact reversing Judge Bray's decision would have on North Carolina policy regarding the protection of the best interests of the child and the foster care system. Further, the brief would highlight North Carolina's long-standing recognition of the importance of protecting the property rights of children, such as that set forth in the North Carolina Constitution, art. X, §2, cl. 2.

## III. Questions Of Law To Be Addressed and Amici's Position On The Issues

The Amici seek leave to address the following issues: 1) whether Judge Bray's decision should be upheld, as a reversal would be contrary to North Carolina public policy regarding the best interests of the child standard; 2) whether Judge Bray's decision should be upheld, as a reversal would have a long-lasting and negative effect on the ability of the North Carolina courts and agencies to care for and protect the best interests of the children of North Carolina; and 3) whether Judge Bray's decision should be upheld, as a reversal

would be contrary to North Carolina's long-standing recognition of the importance of property rights, particularly the rights of minor children to inherit and maintain property from their parents.

It is the Amici's position that a reversal of Judge Bray's decision creates a slippery slope which could drastically change the application of the best interests of the child standard in North Carolina as well as North Carolina policy regarding the provision of services to children in North Carolina. Allowing DSS to ignore and neglect a child's interests in favor of DSS' own financial interests would be contrary to the very principles that DSS seeks to serve -- ensuring the protection and care of children and promoting self-reliance and self-sufficiency for individuals and families.

Moreover, a reversal would hinder the ability of North Carolina's courts to care for and protect foster care children by limiting their discretion to exercise jurisdiction, as well as altering the best interests standard.

Finally, any decision that fails to provide some sort of protection for a minor child's inherited property rights would be contrary to North Carolina's long-standing recognition of the importance of those rights, such as that set forth in the North Carolina Constitution, art. X, §2, cl. 2.

**IV. Conclusion**

For the foregoing reasons, the Amici respectfully request the Court grant them leave to file a brief in support of the Respondent in this matter.

Respectfully submitted this 19<sup>th</sup> day of June, 2006.

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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has served a copy of the foregoing **Motion for Leave to File Amicus Curiae Brief** on counsel of record for all parties by mailing a true copy thereof, through the United States mail, first class postage prepaid, addressed as follows:

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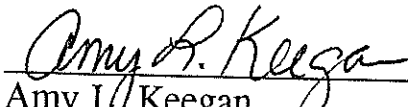
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This the 19th day of June, 2006

  
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