

COPY

IN THE MISSISSIPPI SUPREME COURT

RENNIE T. GIBBS,
PETITIONER,

FILED

CASE NO: 2010-M-819

v.
STATE OF MISSISSIPPI,

MAY 19 2010

**OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS**

RESPONDENT.

MOTION AND BRIEF FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*

Pursuant to Miss. R. App. Pr. 29(a), the National Association of Social Workers, the National Association of Social Workers—Mississippi Chapter, the Mississippi Youth Justice Project, the Mississippi Human Services Agenda, the American Civil Liberties Union of Mississippi, the Mississippi National Organization for Women, the American Academy of Addiction Psychiatry, the Association for Medical Education and Research in Substance Abuse, the National Council on Alcoholism and Drug Dependence, Inc., the Association of Reproductive Health Professionals, the National Association of Nurse Practitioners in Women’s Health, the National Women’s Health Network, the Center for Gender and Justice, the Baron Edmond de Rothschild Chemical Dependency Institute, the Black Women’s Health Imperative, Global Lawyers and Physicians, and Citizens for Midwifery respectfully move this court for leave to file an *Amicus Curiae* brief in the above-captioned matter.

Amici Curiae’s proposed brief provides an overview of scientific and medical information regarding the state of knowledge about the causes of stillbirth in general, the specific research regarding the actual risks of prenatal exposure to cocaine, and the medical consensus concerning the nature of addiction and recovery. No brief currently before the Court provides

such an analysis and without this brief, critically important “matters of fact and law [might] otherwise escape the court’s attention.” Miss. R. App. Pr. 29(a)(4).

Amici include Mississippi and national physicians, nurses, counselors, social workers, drug treatment specialists, public health practitioners, advocates for women and children’s health and their professional associations.

Amicus Curiae **National Association of Social Workers (“NASW”)** is the world’s largest association of professional social workers with 145,000 members in fifty-six chapters throughout the United States and abroad. Founded in 1955 from a merger of seven predecessor social work organizations, NASW is devoted to promoting the quality and effectiveness of social work practice, advancing the knowledge base of the social work profession, and improving the quality of life through utilization of social work knowledge and skills. NASW believes that criminal prosecution of women who use drugs during their pregnancy is inimical to family stability and counter to the best interests of the child. The needs of society are better served by treatment of addiction, not punishment of the addict. NASW’s policy statement, Alcohol, Tobacco, and Other Drugs, supports “an approach to ATOD [alcohol, tobacco and other drug] problems that emphasizes prevention and treatment” and efforts to “eliminate health disparities that accrue from ATOD problems and discriminatory practices from the criminal justice system.” (NASW, *Social Work Speaks*, 8th ed., 2009).

Amicus Curiae **National Association of Social Workers—Mississippi Chapter (“NASW-MS”)** has 877 members and is particularly interested in this case due to its significant local impact.

Amicus Curiae **Mississippi Youth Justice Project (“MYJP”)** is a non-profit legal and public policy advocacy organization that works to reform Mississippi’s juvenile and criminal justice systems. MYJP represents individual children in criminal and delinquency matters in both

youth and circuit court. As counsel in the federal class action *Morgan v. Sproat* (No. J75-21(N)), MYJP attorneys represent over 100 court-involved children confined at the Oakley Training School. The organization drafts and lobbies for legislation seeking to improve Mississippi's juvenile and criminal justice systems. MYJP also facilitates family support groups for the parents and guardians of incarcerated and court-involved children and has conducted public education around issues of fairness and equity in the criminal and juvenile justice systems for hundreds of Mississippians throughout the state.

Amicus Curiae Mississippi Human Services Agenda ("MHSA") is a nonprofit organization that advocates for policies that promote human rights and poverty alleviation. MHSA conducts research and advocacy with an emphasis on welfare, education, and health in Mississippi's communities.

Amicus Curiae Mississippi National Organization for Women is a chapter of the National Organization for Women ("NOW"). NOW is the largest, most comprehensive women's advocacy group in the United States. NOW has 500,000 contributing members and 550 chapters in all 50 states and the District of Columbia. Its purpose is to take action to bring women into full participation in society—sharing equal rights, responsibilities and opportunities with men, while living free from discrimination.

Amicus Curiae American Civil Liberties Union of Mississippi ("ACLU-MS") defends and protects the constitutional rights of Mississippians across the state through advocacy, education and litigation. One of its main projects involves reforming the state's criminal justice system to fight for more alternatives to incarceration, more rehabilitation services for drug offenses, full restoration of voting rights for people with felony convictions, ending racial profiling as a law enforcement tool and ending the state's mandatory minimum sentencing law. ACLU-MS works to end the over-incarceration of youth in Mississippi's training schools and to

end unfair school policies and practices that criminalize students. ACLU-MS is part of a nationwide, non-profit nonpartisan organization with more than 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution of the United States. The ACLU-MS serves to preserve and extend constitutionally guaranteed rights to all people, but consistently has served those who have historically been denied their rights.

Amicus Curiae **American Academy of Addiction Psychiatry (“AAAP”)** is an international professional membership organization made up of practicing psychiatrists, university faculty, medical students and other related professionals founded in 1985 with approximately 1,000 members in the United States and around the world. AAAP is devoted to promoting accessibility to the highest quality treatment for all who need it by providing continuing education for addiction professionals, disseminating new information in the field of addiction psychiatry, and encouraging research on the etiology, prevention, identification, and treatment of the addictions. AAAP opposes the prosecution of Regina McKnight based on the belief that instead of promoting prenatal care and treatment, the threat that women’s use of illegal substances can be disclosed to law enforcement for use in criminal prosecutions will likely discourage some pregnant women from seeking prenatal care and treatment of their substance use disorder and negatively impact the confidential psychiatrist-patient relationship.

Amicus Curiae **The Association for Medical Education and Research in Substance Abuse (“AMERSA”)** was founded in 1976 by members of the Career Teachers Program, a multidisciplinary health professional faculty development program supported by the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse. AMERSA has since grown to over 300 members representing physicians of several specialties (MD and DO), nurses, social workers, psychologists, pharmacologists, dentists, and other professionals. AMERSA prides itself on its multidisciplinary and multispecialty membership, and its members

benefit from the diversity of perspectives. AMERSA members have been responsible for many important advances in substance abuse education and research. AMERSA members have developed, implemented, and evaluated state-of-the-art curricula, educational programs, and faculty development programs. Our members have developed clinical and research measures for substance abuse services and professional education. They are actively engaged in research related to substance abuse education, clinical service, and prevention.

Amicus Curiae **National Council on Alcoholism and Drug Dependence, Inc.**

(“NCADD”), with its nationwide network of affiliates, provides education, information, and hope in the fight against the chronic diseases of alcoholism and other drug addictions. Founded in 1944, NCADD historically has provided confidential assessment and referral services for alcoholics and other drug addicts seeking treatment. In 1990, the NCADD Board of Directors adopted a policy statement on “Women, Alcohol, Other Drugs and Pregnancy” recommending that “[s]tates should avoid measures which would define alcohol and other drug use during pregnancy as prenatal child abuse and should avoid prosecutions, jailing or other punitive measures which would serve to discourage women from seeking health care services.”

Amicus Curiae **Association of Reproductive Health Professionals (“ARHP”)** is a national non-profit, interdisciplinary medical association for leaders in the field of reproductive health. Founded in 1963 and comprised of physicians, nurse practitioners, physician assistants, pharmacists, researchers, and educators, ARHP serves as an important source of reproductive health education and information for health care professionals, patients, legislators, other professionals, and the public at large. ARHP is concerned that the threat of prosecution, conviction, and incarceration will undermine accepted health care standards and will interfere with the ability of physicians, nurse practitioners, and other clinicians who treat pregnant and parenting women to provide appropriate, quality health care.

Amicus Curiae **National Association of Nurse Practitioners in Women's Health**

("NPWH"), formerly National Association of Nurse Practitioners in Reproductive Health, is a professional organization founded in 1980 that represents nurse practitioners who provide care to women in both the primary care setting and in women's health specialty practices. The U.S. Department of Education recognizes NPWH as the designated organization for the accreditation of women's health nurse practitioner programs. NPWH is committed to assuring access of quality health care to women of all ages by nurse practitioners, and to protecting a woman's right to determine the course of her own health care. NPWH programs and publications offer special expertise in reproductive health care and nurse practitioner issues.

Amicus Curiae **National Women's Health Network ("NWHN")** improves the health of all women by developing and promoting a critical analysis of health issues in order to affect policy and support consumer decision-making. The Network aspires to a health care system that is guided by social justice and reflects the needs of diverse women. The National Women's Health Network was founded in 1975 to give women a greater voice within the healthcare system. NWHN is a membership-based organization supported by 8,000 individuals and organizations nationwide. NWHN has established core values to guide us in our work as advocates for women's health: (1) We value women's descriptions of their own experiences and believe that health policy should reflect the diversity of women's experiences, (2) we believe that evidence rather than profit should drive the services offered and information that is made available to women to inform their health decision making and practices, (3) we value analysis of science that takes into consideration systems of power and oppression, (4) we believe that the government has an obligation to safeguard the health of all people, (5) all women should have access to excellent health care and (6) women's normal physiological changes over the lifespan should not be unduly medicalized.

Amicus Curiae **Center for Gender and Justice** (“CGJ”) seeks to develop gender-responsive policies and practices for women and girls who are under criminal justice supervision. The Center is committed to research and to the implementation of policies and programs that will encourage positive outcomes for this underserved population.

Amicus Curiae **Baron Edmond de Rothschild Chemical Dependency Institute** (“the Institute”) comprises the addiction treatment advocacy efforts and the related research activities of Beth Israel Medical Center, which has been in the forefront of addiction treatment for almost 45 years, and currently serves some 13,000 individuals with substance misuse problems annually. The Institute's highly respected research staff has published scores of seminal findings in peer-reviewed professional journals. Institute staff members are active participants in international conferences and have played a very strong advocacy role, in America and abroad, for humane policy reform and expansion as well as enhancement of treatment services. The Institute brings its expertise to this Court to explain that punitive government interventions will only deter pregnant substance abusers from obtaining prenatal care and drug treatment and undermine health outcomes for mother and child.

Amicus Curiae **Black Women’s Health Imperative** is the only national non-profit organization devoted solely to the physical, mental and spiritual health and well-being of the nation's 19.5 million Black women and girls. The Black Women’s Health Imperative (Imperative) is dedicated to moving health and wellness to the top of the life agenda of every Black woman, as well as making it a top priority on the nation’s policy and research agenda. The organization’s aim is to deepen the public's resolve to invest in community-based strategies and participatory research that contribute to Black women and their families leading healthier, longer lives in safe and healthy communities. Founded in 1983, by noted health activist, McArthur “Genius” and author, Byllye Y. Avery, the Imperative promotes the empowerment of African

American women as educated health care consumers and caregivers and is the leading force for the elimination of both racial and gender health disparities for African American women.

Amicus Curiae **Global Lawyers and Physicians (“GLP”)** is a non-profit non-governmental organization that focuses on health issues and human rights. Founded in 1996, GLP was formed to reinvigorate the collaboration of the legal, medical and public health professions in protecting the human rights and dignity of all persons. GLP’s mission is to implement the health-related provisions of the Universal Declaration of Human Rights and the Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights, with a focus on health and human rights, patient rights, and human experimentation.

Amicus Curiae **Citizens for Midwifery (“CfM”)** is a national, non-profit, and consumer-based group that promotes maternal and child health through advocating the Midwives Model of Care and seeks to have these practices recognized as an accepted standard of care for childbearing mothers. In focusing on the normalcy of childbirth and the uniqueness of each childbearing woman and family, this model includes monitoring the physical, psychological, and social well-being of childbearing mothers, providing pregnant women with individualized prenatal care and hands-on assistance during labor and delivery, minimizing technological interventions, and identifying women who require obstetrical attention. As an organization, CfM also provides information on midwifery and childbirth issues, encourages and provides guidance for midwifery advocacy, and represents consumer interests regarding midwifery and maternity care.

Because of their involvement serving and protecting pregnant women and girls, all proposed *amici* have “substantial legitimate interests that will likely be affected by the outcome of this case and . . . will not be protected by those already parties to the case.” Miss. R. App. Pr. 29(a)(4).

For the forgoing reasons, *Amici* respectfully request that this Court grant their motion for leave to file an *Amicus Curiae* brief.

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Respectfully submitted,



Poonam Juneja
Mississippi Bar No. 103181
Mississippi Youth Justice Project
921 N. President St. Suite B
Jackson, MS 39202
Telephone: (601) 948-8882
Facsimile: (601) 948-8885
Email: poonam.juneja@splcenter.org

Tamar Todd
California Bar No. 211865
Drug Policy Alliance
918 Parker Street, Building A21
Berkeley, CA 94710
Telephone: (510) 229-5213
Facsimile: (510) 295-2810
Email: ttodd@drugpolicy.org.

COUNSEL FOR AMICI CURIAE