

No. 5D13-1766

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**IN THE  
DISTRICT COURT OF APPEAL OF THE  
STATE OF FLORIDA, FIFTH DISTRICT**

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In the Matter of the Adoption of D.D.P., a minor child, and

G.P.,

*Appellant,*

v.

C.P.,

*Appellee.*

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On Appeal from the Circuit Court of the Eighteenth Judicial Circuit,  
In and For Seminole County Florida (Case No. 11-DR-6006-05A-K)

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**BRIEF FOR THE NATIONAL ASSOCIATION OF SOCIAL WORKERS;  
NATIONAL ASSOCIATION OF SOCIAL WORKERS, FLORIDA  
CHAPTER; AND THE EVAN B. DONALDSON ADOPTION INSTITUTE  
AS AMICI CURIAE IN SUPPORT OF APPELLANT**

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CHANA CANNON, Florida Bar No. 0093359  
DANIEL S. VOLCHOK, *pro hac vice pending*  
MATTHEW TOKSON, *pro hac vice pending*  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
1875 Pennsylvania Avenue N.W.  
Washington, D.C. 20006  
(202) 663-6000

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## INTEREST OF AMICI CURIAE

Established in 1955, the National Association of Social Workers (NASW) is the largest association of professional social workers in the world, with 135,000 members and chapters throughout the United States, in Puerto Rico, Guam, the Virgin Islands, and an International Chapter in Europe. The NASW, Florida Chapter has 5,900 members. With the purpose of developing and disseminating standards of social work practice while strengthening and unifying the social work profession as a whole, NASW provides continuing education, enforces the NASW Code of Ethics, conducts research, publishes books and studies, promulgates professional standards and criteria, and develops policy statements on issues of importance to the social work profession. NASW also frequently submits amicus briefs in courts around the country. *See, e.g., Gartner v. Iowa Dep't of Pub. Health*, 830 N.W.2d 335 (Iowa 2013) (equal protection challenge to state “presumption-of-parentage” statute, as applied to a lesbian spouses to whom a child was born during the marriage); *Debra H. v. Janice R.*, 930 N.E.2d 184 (N.Y. 2010) (lawsuit by former same-sex domestic partner of child’s biological mother, seeking custody rights to child born during partners’ valid out-of-state civil union).

The Evan B. Donaldson Adoption Institute is a national not-for-profit organization whose mission is to provide leadership that improves laws, policies, and practices in order to better the lives of everyone touched by adoption. To

achieve those goals, the Institute conducts and synthesizes research, offers education to inform public opinion, promotes ethical practices and legal reforms, and works to translate policy into action.

Amici's interest in this case is to assist this Court by discussing the well-established social science research on the effect of attachment bonds on a child's healthy development, regardless of biology, and the effect of severing those bonds.

### **SUMMARY OF ARGUMENT**

Substantial social-science research demonstrates that vacating the adoption here and thereby allowing appellee to separate appellant from the child could cause the child severe, and possibly permanent, harm. This research establishes that: children form powerful "attachment bonds" with their parental caregivers; these bonds are essential to healthy childhood development; they are based on the quality of care, and form without regard to any biological or legal relationship between the child and the adult; and severance of these attachment bonds can cause lasting psychological damage to children. This undisputed research leaves no doubt that the Circuit Court's invalidation of the adoption should be reversed, as the rule that it endorses threatens serious deleterious consequences not only for the child in this case but also for many other children throughout the State of Florida.<sup>1</sup>

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<sup>1</sup> Amici's views regarding the Circuit Court's ruling are necessarily grounded in the specific facts of this case (as amici understand them), namely that: (1) a couple jointly planned for the conception of a child whom they intended to

## ARGUMENT

### **EXTENSIVE SOCIAL-SCIENCE RESEARCH ESTABLISHES THAT SEPARATING APPELLANT FROM THE CHILD COULD CAUSE THE CHILD SEVERE AND PERMANENT HARM**

The Circuit Court’s invalidation of appellant’s adoption of the child, which could lead to the separation of appellant from the child whom she and appellee raised together from birth, should be reversed. The court’s order, and any such separation, are wholly inconsistent with fundamental tenets of Florida law, which consistently recognizes the overriding importance of children’s welfare. *See, e.g., G.S. v. T.B.*, 985 So. 2d 978, 982 (Fla. 2008) (“In adoption proceedings, ... the court’s primary duty is to serve the best interests of the child[.]” (omission in original) (internal quotation marks omitted)); *Cheek v. Hesik*, 73 So. 3d 340, 344 (Fla. 1st DCA 2011) (“The best interests of the child are always the paramount concern in child custody and time-sharing matters.”); *Dinkel v. Dinkel*, 322 So. 2d 22, 23 (Fla. 1975) (similar); *Grooms v. Harvey*, 418 So. 2d 467, 468 (Fla. 2d DCA 1982) (“[T]he best interest and ultimate welfare of the child are paramount over the ‘rights’ of the other parties to the proceeding.”); *see also B.Y. v. Dep’t of Children & Families*, 887 So. 2d 1253, 1255-1256 (Fla. 2004) (“The first stated goal of chapter 39, Florida Statutes, is to provide for the care, safety, and protection of

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raise together as equal co-parents, (2) that plan was in fact carried out for several years, (3) the couple jointly sought and secured legal recognition of the non-biological parent’s relationship with the child through an adoption, and (4) significant time passed after the adoption before any challenge to its validity was raised.

children ... and to promote the health and well-being of all children under the state's care.” (internal quotation marks omitted)). Separating appellant from the child would likely inflict severe, possibly irreparable harm on him. This is clear from three basic principles established by decades of social-science research: (1) children form with their parents, and others in a parental role, strong attachment bonds that play a critical role in healthy child development; (2) these bonds depend on the quality and duration of care provided by an adult, not on whether the adult is biologically or legally related to the child; and (3) severing these attachment bonds can cause severe, even permanent, developmental harm to children. Amici address each point in turn.

**A. Child-Parent Attachments Are Critical To Healthy Child Development**

Young children naturally develop powerful “attachment” bonds with parental figures who provide consistent love and support. A wealth of social science research demonstrates that these attachments lay the foundation for children’s healthy psychological, emotional, and social development. *See, e.g.,* Bowlby, *Attachment* (2d ed. 1982); Konner, *Childhood* 84-87 (1991); Ainsworth, *Attachment and Other Affectional Bonds Across the Life Cycle*, in *Attachment Across the Life Cycle* 33-51 (Parkes et al., 1991); *Attachment from Infancy to Adulthood* (Grossmann et al., eds., Guilford Press 2005).

Attachment relationships are a central factor in the development of children's brains during a period of rapid growth, and thus lie at the heart of children's healthy development. "Research ... has shown that the development of a secure, emotional attachment to caregivers (usually parents) is important for healthy psychological adjustment, not only in infancy, but in later childhood as well." Singer et al., *Mother-Infant Attachment in Adoptive Families*, 56 *Child Dev.* 1543, 1544 (1985). Indeed, "[a] strong and healthy parent-child relationship is *crucial* to child development. The parent-child relationship lays the groundwork for the child to develop other close relationships in the future." Seifert, *Sibling Visitation After Adoption: The Implications of the Massachusetts Sibling Visitation Statute*, 84 *B.U. L. Rev.* 1467, 1487 (2004) (emphasis added); *see also* Jackson & Fasig, *The Parentless Child's Right to a Permanent Family*, 46 *Wake Forest L. Rev.* 1, 3 (2011) ("As developmental science demonstrates, attachment relationships are foundational in the formation of the self, critical to healthy psychological adjustment, and necessary for the acquisition of self-regulation and social competence, capacities essential to meaningful autonomy."); Siegel, *The Developing Mind* 67-120 (1999).

Strong attachment bonds derive from the consistent availability of a responsive caregiver. These attachments allow children to develop a powerful sense of security and confidence that enables them to deal effectively with stressful

situations and interact more successfully with others. *See, e.g.,* National Research Council & Institute of Medicine, *From Neurons to Neighborhoods* 265 (2000) (“[Attachment] relationships shape the development of self-awareness, social competence, conscience, emotional growth and emotion regulation, [and] learning and cognitive growth.”); Onorato, *The Right To Be Heard*, 4 Whittier J. Child & Fam. Advoc. 491, 496 (2005) (“A number of studies indicate that the working models that develop early in life remain stable throughout the lifespan and continue to [a]ffect individual development of interpersonal relationships, emotional regulation, and coping mechanisms.”). Studies have found statistically robust correlations between strong parent-child attachment bonds for young children and successful relationships with other children, as well as reduced aggressive behavior in later years. *See, e.g.,* Dallaire & Weinraub, *Infant-Mother Attachment Security and Children’s Anxiety and Aggression at First Grade*, 28 J. Applied Dev. Psychol. 477, 489 (2007).

In short, as one commentator summarized:

Extensive research, including several *twenty-year longitudinal studies* spanning the period from birth to young adulthood, has shown that a child’s secure and healthy development depends on having one or more sensitive and responsive attachment figures who can correctly read signals for help, provide comforting support and useful assistance, and help the child learn to understand, appropriately express, and regulate emotions; understand social situations; and acquire important life skills.

Shaver et al., *What's Love Got To Do with It?*, 16 Va. J. Soc. Pol'y & L. 491, 493 (2009) (emphasis added) (footnote omitted).

Courts have long recognized this body of research and its implications for children's well-being. Over three decades ago, for example, the U.S. Supreme Court deemed it "undisputed that children require secure, stable, long-term, continuous relationships with their parents or foster parents." *Lehman v. Lycoming Cnty. Children's Servs. Agency*, 458 U.S. 502, 513 (1982); *see also Wakeman v. Dixon*, 921 So. 2d 669, 675 (Fla. 1st DCA 2006) (Van Nortwick, J., specially concurring) ("A person develops a parent-child relationship with the child through day-to-day interaction, companionship, and emotional caring for the child. This relationship fulfills the child's psychological needs for a parent, in addition to providing for the child's physical necessities of daily living.").

**B. Child-Parent Attachments Can Form Irrespective Of Whether A Biological Or Legal Child-Parent Relationship Exists**

Children form powerful attachment bonds with adult parental figures regardless of whether the adult is biologically or legally related to the child. *See, e.g.,* Goldstein et al., *Beyond the Best Interests of the Child* 27 (2d ed. 1979); Singer et al., 56 Child Dev. at 1550. What creates and sustains attachment relationships is the quality of the interaction between the adult and the child. As one commentator explained, "research suggests that it is the proximity to the caretaker and the consistent, stable pattern of responses from the caregiver that is

essential for the development of attachment.” Onorato, 4 Whittier J. Child & Fam. Advoc. at 495); *see also* Goldstein et al. at 19 (“Whether any adult becomes the psychological parent of a child is based ... on day-to-day interaction, companionship, and shared experiences.”).

This conclusion comports with everyday experience. A young child does not understand the difference between a biological parent, an adoptive parent, or another parental figure. What the child knows—and what drives his attachment—is who feeds him, dresses him, reads to him, sings to him, plays with him, brushes his teeth and hair, takes him to the doctor, puts band-aids on his scrapes, comforts him when he is sad, helps him with his homework, tucks him into bed at night, and does the countless other tasks of a parental caregiver. Goldstein et al. at 98. That person, as courts and commentators have recognized, can be a biological parent, an adoptive parent, or someone else; to a child, such matters of legal status are immaterial. *See, e.g., In re Autumn H.*, 32 Cal. Rptr. 2d 535, 538-539 (Cal. Ct. App. 1994) (“The significant attachment from child to parent results from the adult’s attention to the child’s needs for physical care, nourishment, comfort, affection and stimulation. The relationship arises from day-to-day interaction, companionship and shared experiences.” (citation omitted)).

The sexual orientation of parental figures is likewise irrelevant to the formation and strength of child-parent attachments. Social-science research has

shown that children are just as likely to form attachment bonds with lesbian or gay parents as with heterosexual parents. See American Academy of Pediatrics, *Family Pediatrics: Report of the Task Force on the Family*, 111 Pediatrics 1541, 1550 (2003). In fact, “every relevant study to date shows that parental sexual orientation per se has no measurable effect on the quality of parent-child relationships or on children’s mental health or social adjustment.” Stacey & Biblarz, *(How) Does the Sexual Orientation of Parents Matter?*, 66 Am. Soc. Rev. 159, 176 (2001).<sup>2</sup>

When same-sex partners cooperatively raise and care for a child, moreover—as in this case—the child forms a significant attachment relationship

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<sup>2</sup> One recent study has been seized on by some as suggesting otherwise. See Regnerus, *How Different Are the Adult Children of Parents Who Have Same-Sex Relationships?*, 41 Soc. Sci. Res. 752 (2012). But as a host of medical and psychological groups have explained in several amicus briefs, including one in the U.S. Supreme Court, “the study’s design precludes any meaningful conclusions because of its overbroad definition of children raised by gay or lesbian parents and its conflation of family instability with any potential effects of parental sexual orientation.” Br. for Am. Psychol. Ass’n et al. at 29, *United States v. Windsor*, No. 12-307 (U.S. Mar. 1, 2013), available at <http://www.apa.org/about/offices/ogc/amicus/windsor-us.pdf>. In fact, “an independent auditor appointed by the journal that published the [study] described it as ‘a non-scientific study’ and concluded it should not have been published.” *Id.* at 32 (quoting Sherkat, *The Editorial Process and Politicized Scholarship: Monday Morning Editorial Quarterbacking and a Call for Scientific Vigilance*, 41 Soc. Sci. Res. 1346, 1349 (2012), available at [http://freemarry.3cdn.net/7ff283327f0b9a3ad0\\_6nm6bnjvk.pdf](http://freemarry.3cdn.net/7ff283327f0b9a3ad0_6nm6bnjvk.pdf)). In any event, an affirmance here would not lead to the child being raised by heterosexual parents because the birth parent is herself a lesbian.

with each parent. McCandlish, *Against All Odds: Lesbian Mother Family Dynamics*, in *Gay and Lesbian Parents* 23-28 (Bozett ed., 1987). And “the quality of the parent-child interaction [does] not differ significantly between the biological mother and the [non-biological] mother.” Brewaeys et al., *Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families*, 12 Hum. Reprod. 1349, 1354 (1997).

Furthermore, adoptions by non-biological co-parents (often referred to as second parent or co-parent adoptions) provide both material and psychological benefits to adopted children. An adopted child with two parents is better protected in the event that one parent dies or becomes incapacitated. If the couple separates, as happened here, the child will be able to maintain a relationship with both parents, and is entitled to financial support from both. The child is eligible for health benefits from either parent, can inherit from either parent via intestate succession, and is eligible for benefits based on either parent’s participation in Social Security or worker’s compensation programs. See American Academy of Pediatrics, *Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 Pediatrics 339, 339 (2002). “Most importantly, a joint adoption affords the adopted children the love, nurturing, and support of not one, but two parents.” *In re Adoption of M.A.*, 930 A.2d 1088, 1097 (Me. 2007); see also Perrin, *Committee*

*on Psychosocial Aspects of Child and Family Health, Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 *Pediatrics* 341 (2002).

The U.S. Supreme Court has not only recognized the importance of the child-caregiver relationship, but has also given it constitutional significance, holding that biological connections between a child and an adult are not by themselves sufficient to justify special constitutional protection. *See Lehr v. Robertson*, 463 U.S. 248, 261 (1983) (“[T]he mere existence of a biological link does not merit [substantial] constitutional protection.”), *quoted in Adoption of Baby E.A.W.*, 658 So. 2d 961, 966 (Fla. 1995). What matters instead, the Court has explained, is the interaction that creates attachment relationships with children:

[T]he importance of the familial relationship, to the individuals involved and to the society, stems from the emotional attachments that derive from the intimacy of daily association, and from the role it plays in “promot[ing] a way of life” through the instruction of children, as well as from the fact of blood relationship.

*Smith v. Organization of Foster Families for Equality & Reform*, 431 U.S. 816, 844 (1977) (second alteration in original) (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 231-233 (1972)), *quoted in Lehr*, 463 U.S. at 261.

Other courts, similarly recognizing researchers’ findings in this area, have looked to the duration and quality of a parent-child relationship when resolving disputes over parental rights. As another state’s highest court has observed:

Several of our sister states have found that [a] nonparent has standing to seek custody or visitation of [a] child when the child was conceived

by artificial insemination with the intent that the child would be co-parented by the parent and her partner, *and the parent and her partner had thereafter co-parented the child for a period of time.*

*Mullins v. Picklesimer*, 317 S.W.3d 569, 575 (Ky. 2010) (emphasis added); *see also T.B. v. L.R.M.*, 786 A.2d 913, 919 (Pa. 2001) (One “parent’s rights do not extend to erasing a relationship between her partner and her child *which she voluntarily created and actively fostered* simply because after the parties’ separation she regretted having done so.” (emphasis added) (internal quotation marks omitted)).

### **C. Disruption Of Attachment Relationships Can Permanently Harm Children**

Courts have also recognized that disrupting parent-child attachment bonds—as the Circuit Court’s order in this case threatens to do—can severely harm a child. As one state’s high court said, for example, “[a]doptive custody results in the rapid development of lasting and powerful psychological ties between adoptive parents and children, especially young children. Once formed, these bonds can seldom be severed without *irreparable damage* to the child’s well-being.” *Hernandez v. Lambert*, 951 P.2d 436, 441-442 (Alaska 1998) (emphasis added). This conclusion too is supported by decades of social-science research. In fact, “numerous empirical findings ... provide a solid research basis for predictions of long-term harm associated with disrupted attachment and loss of a child’s central parental

love objects.” Dyer, *Termination of Parental Rights in Light of Attachment Theory*, 10 Psych. Pub. Pol. & L. 5, 11 (2004). This research also shows that a child is likely to suffer the negative effects that flow from the disruption of attachment bonds whether or not there is a biological connection between the child and the parental figure. See Tasker & Golombok, *Growing Up in a Lesbian Family: Effects on Child Development* 12 (1997); Gauthier et al., *Clinical Application of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care*, 25 Infant Mental Health J. 379, 394 (2004).

Children who form attachment bonds come to believe that they can depend on continued interactions with the adult or adults to whom they are attached. Severing attachment bonds shatters this belief. It has profound negative effects, such as making the child reluctant to depend on or trust others, or convincing the child that her own shortcomings are to blame for the severed attachment bonds. See Byrne et al., *The Contribution of Attachment Theory to Child Custody Assessments*, 46 J. Child Psychol. & Psychiatry 115, 118 (2005) (“[T]hreats to or disruptions in the attachment relationships ... lead to fear/anxiety.”); Jackson & Fasig, 46 Wake Forest L. Rev. at 27-28 (“Disruption [of attachment bonds] causes children to not only suffer separation distress and anxiety but also setbacks in the quality of their next attachments, which will be less trustful.” (internal quotation

marks omitted)); Hodges, *Interventions for Children of Divorce* 8-9 (2d ed. 1991); Bemby & Ericson, *Therapeutic Termination with the Early Adolescent Who Has Experienced Multiple Losses*, 16 *Child & Adolescent Soc. Work J.* 177, 182-183 (1999).

A child's feelings of abandonment can, in turn, lead to "aggression, ... academic problems in school and ... elevated psychopathology." Marty et al., *Supporting Secure Parent-Child Attachments*, 175 *Early Child Dev. & Care* 271, 274 (2005). It can also cause eating disorders, drinking problems, and sleep disruptions. See Simms et al., *Health Care Needs of Children in the Foster Care System*, 106 *Pediatrics* 909, 912 (2000). Indeed, "there is a substantial literature documenting the adverse effects of disrupted parent-child relationships on children's development and adjustment." Kelly & Lamb, *Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children*, 38 *Fam. & Conciliation Courts Rev.* 297, 303 (2000); accord, e.g., Gauthier et al., 25 *Infant Mental Health J.* at 394 (2004). These effects are wide-ranging. As a leading authority puts it, "[t]he child regresses along the whole line of his affections, skills, achievements, and social adaptation." Goldstein et al. at 18. Conversely, "there is substantial evidence that children are more likely to attain their psychological potential," i.e., avoid these damaging developmental effects, when they are able to develop and maintain meaningful relationships with

both of their parents, whether the two parents live together or not.” Kelly & Lamb, 38 Fam. & Conciliation Courts Rev. at 303.

**D. Application To This Case**

Application of the foregoing to this case makes clear that the Circuit Court’s decision should be reversed. Florida adoption law and policy reflect the findings of extensive scientific research regarding the formation of attachment bonds with parental figures and the harm to children from severing such bonds. It reflects these findings by making paramount the best interests of the child as well as finality, stability, and permanence. The Circuit Court’s order invalidating the adoption undermines all of these principles. It would allow the severance of appellant’s relationship with the child, thereby creating a strong risk that the attachment bonds he undoubtedly has formed with appellant will be severed. Amici submit that the present circumstances do not remotely warrant the infliction on the child of the social and psychological devastation that would likely result. The law does not require such a result. Nor do fundamental notions of decency and justice. To the contrary, as another state’s high court observed in a somewhat similar case, “[t]o disturb the present relationship at this late date would be a cruel travesty on justice.” *Syrovatka ex rel. Syrovatka v. Graham*, 208 N.W.2d 281, 283 (Neb. 1973).

## CONCLUSION

The judgment of the Circuit Court should be reversed because it is inconsistent with this state's longstanding—and correct—recognition that protecting the welfare and furthering the best interests of our children, and promoting stability, permanency, and finality, are of the utmost importance. Allowing appellee to void the adoption and separate appellant from the child could cause him grave and long-lasting psychological harm.

Dated: August 8, 2013

Respectfully submitted,

/s/ Chana Cannon

CHANA CANNON, Florida Bar No. 0093359

DANIEL S. VOLCHOK, *pro hac vice pending*

MATTHEW TOKSON, *pro hac vice pending*

WILMER CUTLER PICKERING

HALE AND DORR LLP

1875 Pennsylvania Avenue N.W.

Washington, D.C. 20006

(202) 663-6000

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent by electronic mail on August 8, 2013, to each of the following:

Shelbi D. Day  
LAMBDA LEGAL DEFENSE &  
EDUCATION FUND, INC.  
3325 Wilshire Boulevard  
Suite 1300  
Los Angeles, California 90010  
SDay@lambdalegal.org  
*Counsel for appellant*

Clifton H. Gorenflo  
GORENFLO & PARTLOW, P.A.  
901 East 2nd Street  
Sanford, Florida 32771-2101  
Clifton@grayandgorenflo.com  
service@grayandgorenflo.com  
sanfordattorneys@gmail.com  
*Counsel for appellee*

/s/ Daniel S. Volchok  
Daniel S. Volchok

## CERTIFICATE OF COMPLIANCE

I certify that the foregoing complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

/s/ Daniel S. Volchok  
Daniel S. Volchok