STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DKT. NO. CUM-25-29

EMILY A. BICKFORD

Plaintiff-Appellant,

v.

MATTHEW A. BRADEEN

Defendant-Appellee

ON APPEAL FROM PORTLAND DISTRICT COURT

REPLY BRIEF OF APPELLANT EMILY A. BICKFORD

David M. Hirshon, Esq.
Maine Bar No. 1036
Hirshon Law Group, P.C.
P.O. Box 124
Freeport, ME 04032-0124
(207) 865-4852
dhirshon@hirshonlawgroup.com

Mathew D. Staver*
Daniel J. Schmid*
Richard L. Mast*
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
(407) 875-1776
court@lc.org
dschmid@lc.org
rmast@lc.org
*Admitted pro hac vice

Attorneys for Appellant Emily A. Bickford

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INTRODUCTION

Appellee Matthew Bradeen ("Bradeen") implores this Court to accept the district court's grossly unconstitutional prohibition on Appellant Emily Bickford's ("Bickford") right to take her child to a specific Church on the basis that Bickford's religious beliefs and those of her Church are the equivalent of a "cult." The sole premise for the district court and Bradeen's remarkable contentions to this Court: that praying in front of Minor Child, teaching the Old Testament and New Testament (*i.e.*, the Bible) to Minor Child, and teaching Minor Child that there is such a thing is right and wrong are all "objectively inappropriate" and "psychologically unsafe" for a Minor Child. (Appendix, "App.," 033.) As unconstitutional as that prohibition on attending a specific Church is, the district court's order is far worse.

Perhaps sensing that prohibiting a fit parent, Bickford, from taking her minor daughter (over whom she has custody) to a Church that holds mainstream Biblical views and teaches from the Bible on the basis that it is a "cult" is riddled with significant constitutional infirmities, Bradeen retreats to blatant misrepresentations of the district court's order stripping Bickford of the right to direct the religious upbringing and education of Minor Child. Bradeen contends that the district court did not generally restrict Bickford from taking her child to *any* Church, only that Bradeen was awarded decision-making authority over Minor Child's involvement in Calvary Chapel. (Brief of Appellee, "Appellee Br.," 20.) He contends that the district

court permits Bickford to take Minor Child to *other* Churches without any restriction. This is plainly and undeniably false. There is no dispute that the district court completely removed Bickford's authority to take Minor Child to Calvary Chapel solely on the basis of its religious views. (App. 042.) That gross violation of the First Amendment and Bickford's constitutional right to direct her child's religious upbringing is bad enough, but the district court did not stop there. It took its unconstitutional quest a step further and held that Bickford was prohibited from taking Minor Child to ***any Church or religious organization***. (App. 042 ("Bradeen is awarded the right to make final decisions regarding [Minor Child's] participation in *other* churches or religious organizations") (emphasis added).)

The district court's order therefore prohibits Bickford from taking Minor Child to ***any Church*** without the permission of Bradeen—who has clearly and unequivocally articulated (and continues to articulate in this Court) his belief that teaching the Bible is "objectively inappropriate" and "psychologically unsafe" for Minor Child. Bradeen objects to Churches that, *inter alia*, (a) offer anything more than "a simply prayer" in front of minor children (Appellee Br., 28), (b) teach from the Bible (Appellee Br., 29), (c) believe the Bible's teachings on salvation (*id.*), and (d) teach objective truth. (Appellee Br., 14). *That is the essence of Church*. As such, the district court's order prohibits Bickford from taking Minor Child to *any* Church with mainstream Christian views, and Bradeen's false construction of that order

cannot save it from its rightful demise. The Constitution affords far more protection for Bickford's fundamental parental rights, and so should this Court.

ARGUMENT

I. The District Court's Decision Is Not Supported By A Compelling Interest.

A. Fit parents, such as Bickford, are presumed to act in the best interest of their children, and the government is not permitted to second-guess their religious choices as *parens patriae*.

Bradeen contends that Bickford (and all parents) are afforded "a great deal of deference" when it comes to their children's religious upbringing. (Appellee Br., 25.) That statement is, at best, a half-truth, and, "as Justice Frankfurter used to observe, 'a half-truth is often a whole lie.'" *Union Pac. R. Co. v. State Tax Com'n of Utah*, 716 F. Supp. 543, 560 (D. Utah 1988). Rather, fit parents are *presumed* to act in the best interest of their children—including decisions concerning religious beliefs, instruction, and activities. *See, e.g.*, *Troxel v. Granville*, 530 U.S. 57, 68 (2000) ("there is a presumption that fit parents act in the best interest of their children"); *Parham v. J.R.*, 442 U.S. 584, 604 (1979) (noting "the traditional presumption that the parents act in the best interests of their child"); *Hodgson v. Minnesota*, 497 U.S. 417, 450 (1990) (same). This Court has taken that presumption a step farther, holding that "the presumption that fit parents act in the best interest of their children" naturally means that "trial courts must accord special weight to parents' decisions" concerning their children. *Rideout v. Riendeau*, 761 A.2d 291, 297 (Me. 2000). Thus,

Bickford's choice in Church and religious activities for Minor Child is presumed to be in Minor Child's best interest—regardless of a demonstrably hostile so-called "expert's" opinion on the Bible and Christianity.

Building on his false narrative, Bradeen contends that the state as "patrons patriae" can limit the religious activities of a fit parent if it determines that "participation in religious activities" is "harmful" to the child. (Appellee Br., 25.) This is wholly incorrect.

> The state's power as *parens patriae* allows intervention in the parent-child relationship only under *serious circumstances*, such as where the state seeks the permanent severance of that relationship in an involuntary termination proceeding. The fundamental purpose of such a proceeding is to provide the greatest possible protection to a child whose parents are unable or unwilling to provide adequate rearing and care for his physical, emotions, and mental health needs.

State ex rel. L.R.S., 877 So.2d 1040, 1045 (La. Ct. App. 2nd 2004). Indeed, "the fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or the state disagrees with a choice the parent has made regarding religion." *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). The notion that State as *parens patriae* can override Bickford's constitutionally protected religious decisions concerning her child is a defunct doctrine. "The statist notion that governmental power should supersede parental authority in *all* cases because *some* parents abuse and neglect children is repugnant to the American tradition." *Parham*, 442 U.S. at 603 (emphasis

original). Thus, "absent a finding of neglect or abuse," which the district court explicitly found is *not* present here (App. 037), Bickford retains the presumption that her decisions are in the best interest of Minor Child and retains the "dominant" role in decisions concerning her upbringing. *Parham*, 442 U.S. at 604. The district court's acceptance of Bradeen's requested paternalistic views of government oversight of Bickford's religious upbringing is unconstitutional, unlawful, and unconscionable.

B. Disagreement with religious practices or beliefs is not a compelling interest to deprive Bickford of her fundamental parental rights.

Bradeen contends that the district court's factual findings warrant upholding its decision because Bickford's religious beliefs are purportedly "psychologically unsafe" for Minor Child. (Appellee Br., 27-29.) "A parent should not be denied [custodial rights] simply because he or she holds religious beliefs in opposition to the other parent or the American mainstream." *Petition of Deierling*, 421 N.W.2d 168, 170 (Iowa Ct. App. 1988). *See also Gould v. Gould*, 342 N.W.2d 426, 504 (Wis. 1984) (religious beliefs of one parent cannot be the basis for preferring one parent over the other). Here, Bickford's religious beliefs are well within mainstream views of Christianity and the Bible. (*See* Brief of Appellant, 25-33.) Bradeen's objection (or the district court's for that matter) is an insufficient basis for prohibiting Bickford from taking Minor Child to Church. *Munoz v. Munoz*, 489 P.2d 1133, 1135 (Wash. 1971) ("courts are reluctant, however, to interfere with the religious faith and training of children where the conflicting religious preferences of the parents are in

no way detrimental to the welfare of the child. The obvious reason for such a policy of impartiality regarding religious beliefs is that, *constitutionally*, American courts are *forbidden* from interfering with religious freedoms or to take steps preferring one religion over another." (emphasis added)).

The fundamental flaw in Bradeen's analysis (and with the district court's below) is that each finding arises from mainstream and constitutionally protected religious practices and beliefs. (*See* Brief of Appellant, 25-33.) But, even assuming the so-called "cult" expert is correct that Bickford's views are out of the mainstream and "scary," which they are not, that is insufficient to warrant the district court's intrusion into Bickford's parental rights. *See Wisconsin v. Yoder*, 406 U.S. 205, 223 (1972). "There can be no assumption that today's majority is 'right' and the Amish and others like them are 'wrong.' A way of life that is odd or even erratic but interferes with no rights or interests of others is not to be condemned because it is different." *Id.* at 223-24. That the so-called "expert" claimed Calvary Chapel was cultic because it had a Moses-like figure, understood Scripture literally, or otherwise taught about good and evil is of no moment. Bradeen, the so-called cult "expert," and the district court are all entitled to their views of the Bible and religion. *So is Bickford*. The district court was not permitted to find that Bickford was harming her child on the basis of religious beliefs—whether mainstream or unconventional. Prayer is not, as the district court held, "objectively inappropriate." (App. 031.) The

district court's prohibition on a mother taking her child to church on the basis of the Church's religious views is inappropriate, unconstitutional, and an abuse of discretion.

C. Speculative assertions about potential harm does not and cannot suffice to deprive Bickford of her fundamental parental rights.

The district court committed an abuse of discretion and clear error by presuming that religious beliefs (mainstream among all Christian denominations in America) are "objectively inappropriate" (App. 033) and basing that on the testimony of a witness demonstrably hostile to religious beliefs. This Court's precedents demonstrate the clear error in that approach. "We emphasize that the court, when faced with a question of this nature, must *never assume* that a threat to the child's welfare exists." *Osier v. Osier*, 410 A.2d 1027, 1031 n.6 (Me. 1980). Rather, the court must determine "whether the religious practice at issue *in fact* poses an *immediate and substantial risk* to the temporal well-being of a child." *Id.* (emphasis added).

Even a cursory review of Bradeen's contentions and the district court's findings demonstrates that the allegations of purported harm to Minor Child arise from speculative assertions based on objections to mainstream religious teachings.

First, even if present, which it is not, mere fear or anxiety over a particular religious teaching is constitutionally insufficient to eliminate Bickford's right to direct Minor Child's religious upbringing. Bradeen contends that "substantial harm"

arises to Minor Child because she has allegedly expressed "fear" and "anxiety" over the teachings of Calvary Chapel. (Appellee Br., 27.) Such speculation cannot overcome the presumption that Bickford is acting in the best interest of her child and cannot strip her of the ability to instruct her child in religious matters. The harm to the child must be found "substantial," not mere expressions of fear. *Osier*, 410 A.2d at 1031 n.6. If a child's fear was sufficient to deprive an otherwise fit parent of parental decision-making authority, no parent would retain the right to educate their children in matters of anything.

The Constitution even protects the fundamental right of parents to take their children to religious sects with fundamentalist interpretations of Scripture that engage in unconventional religious activities. The Supreme Court of Mississippi's decision in *Harris v. Harris*, 343 So.2d 762 (Miss. 1977), which this Court relied upon in *Osier*, 410 A.2d at 1031 n.6, is particularly instructive. In *Harris*, the mother took her child to Free Will Holiness Pentecostal Church, which "is a fundamentalist sect that bases its belief concerning handling snakes on Mark 16:18, which states, "They shall take up serpents; and if they drink any deadly thing, it shall not hurt them." 343 So.2d at 763. The child in *Harris* "ha[d] been permitted to attend religious services where reptiles were handled in close proximity to the said child, where there was some shouting, speaking in the unknown tongue, and generally a situation which could do nothing but disturb and scare a small child." *Id.*

The Mississippi Supreme Court noted that the case involved a fundamental question, identical to the question at issue here, which was whether the court "may lawfully deprive a mother of the custody of her child because of her adherence to a particular religious belief." *Id.* at 762. Or, put another way, "[c]ould the chancellor lawfully change the custody of this child because the mother and child attended the Free Will Holiness Pentecostal Church?" *Id.* at 763. Boiled down to its essence, the question was whether the mother has "the constitutional right to attend the church of her choice and bring up her child in accordance with her religious beliefs?" *Id.* The Mississippi Supreme Court's answer was unequivocal: *of course she does*. "The chancery court had no authority to dictate to Mrs. Harris what religion she should teach her child so long as it did not involve exposing him to physical danger or to what society deems immoral practices." *Id.*

That religious beliefs or practices in a Church might cause some fear, anxiety, or disturbance to a child is *not* a basis upon which to prohibit a fit mother from taking her child to that Church. If handling deadly and venomous snakes in a religious service is insufficient to prohibit a mother from attending services at that Church, how much more so when all Bickford's Church involves is traditional prayer and teaching from the Bible. Yet the district court found that it was "objectively inappropriate" and psychologically harmful (App. 033) for Minor Child to hear

prayers at Church. That decision is manifestly unjust, unconstitutional, and an abuse of discretion.

Second, speculative and self-serving contentions concerning harm are insufficient. Bradeen's self-serving contention (Appellee Br., 27) that Minor Child allegedly has "panic attacks" (conveniently only ever in Bradeen's presence) because of Bickford's Church does not diminish this in any respect. "General testimony by [objecting parent] that the child was upset or confused . . . will not suffice." *Felton v. Felton*, 418 N.E.2d 606, 610 (Mass. 1981). The reason for that is simple: it is far too easy for a parent objecting to a particular religious practice to engage in "self-serving testimonies" that have no corroboration from anyone other than the objecting parent. *Id.* at 611. Indeed, mere testimony from the objecting parent that religious instruction "confuse[s] and alarm[s] the children," or that it "causes a great deal of trauma for the children," are insufficient to deprive a parent of the right to make religious decisions for her child. *Robertson v. Robertson*, 575 P.2d 1092, 1093 (Wash. Ct. App. 1978). Simply put, prohibiting Bickford from exercising her fundamental parental rights to direct her Minor Child's religious upbringing and take her to Calvary Chapel (or any other Church) cannot be based on Bradeen's self-serving testimony and speculation that his self-serving testimony about Minor Child even exists, much less caused by Bickford's constitutionally

protected choice in Church. *Felton*, 418 N.E.2d at 241 ("mere conclusions and speculation" cannot justify restricting parental rights).

Where, as here, the objecting parent's allegations of mental distress are not corroborated by anything other than self-serving testimony of that objecting parent, courts are not permitted to strip a fit parent of her choice in religious upbringing—particularly where the non-objecting (and primary custodial) parent testimony contradicts the self-serving testimony of the objecting parent. *See In re Mariage of Murga*, 103 Cal. App. 3d 498, 505 (Cal. Ct. App. 1980) (rejecting calls to enjoin parent from taking child to religious activities where no evidence existed to corroborate the suggestion of alleged anxiety); *id.* at 505-06 ("While the mother testified to some problems with the child's behavior there was no persuasive evidence that any such problems were caused by the child's involvement in the father's religious activities during visitation. The father testified that whatever problems existed seemed to disappear as soon as the child was out of the mother's presence and that he had no difficulty with the child during visitations.").

Third, teaching the Bible and objective truth are not a basis to find harm. Bradeen contends that the so-called cult "expert" was correct that the harm to Minor Child from receiving mainstream Christian messages from the Bible is "evident" and demands that Bickford be prohibited from instructing Minor Child in religious matters. (Appellee Br., 29.) The premise behind this purportedly "evident" harm was

that teaching a child that there is a "right way" and that there is objective truth prohibits a minor from developing into their "own identity." (*Id.*) This is as unconstitutional as it is absurd. *Parham*, 44 U.S. at 603-04.

Bradeen relies on certain messages that are taught at Calvary Chapel as a basis to find "harm." (Appellee Br., 29-30.) These purportedly "harmful" messages include: (1) there is salvation, (2) that there is a hell in which separation form God results in "wailing and gnashing of teeth, burning and torment, and perpetual pain and regret." (Appellee Br., 29.) The upshot (for Bradeen) is that the Bible "demonizes" others who do not follow its teachings. (*Id.*) What Bradeen and the district court seek to do in this matter is nothing short of extraordinary. Taken to its logical conclusion, a finding by this Court that messages in the Bible are "substantially harmful" and "psychologically unsafe" to children would criminalize the teaching of the Bible, categorically declare religious beliefs and instruction impermissible for children, and deprive parents of the oldest fundamental right known to the Republic. *This Court cannot take that step*.

As the Supreme Court of Washington noted, "the rule appears to be well established that the courts should maintain an attitude of strict impartiality between religions and should not . . . restrain any person having custody or visitation rights from taking the children to a particular church." *Munoz*, 489 P.2d at 1135. Rejecting assertions that a parent should be restrained from taking a child to church because

of its potentially confusing nature, the Court noted that even different religious beliefs between different parents is not a basis to find harm. "We are not convinced, in absence of evidence to the contrary, that duality of religious beliefs, per se, creates a conflict upon young minds." *Id.*

For one, this type of regime has already been plainly (and rightfully) rejected by the Supreme Court. To hold that parents cannot teach their children Scripture because it speaks of objective truth, eternal life, and salvation would be unconstitutionally Spartan in its essence. It would mean the Republic's "children are to be common, and no parent is to know his own child, nor any child his parent." *Meyer v. Nebraska*, 262 U.S. 390, 401-02 (1923).

> In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven into barracks and intrusted their subsequent education and training to official guardians. Although such measures have been deliberately approved by men of great genius their ideas touching the relation between the individual and the state were *wholly different from those upon which our institutions rest*; and it hardly will be affirmed that any Legislature could impose such restrictions upon the people of a state *without doing violence to both letter and spirit of the Constitution*.

Id. at 402 (emphasis added).

As the Court recognized in *Parham*, "our constitutional system long ago rejected any notion that a child is a mere creature of the State." 442 U.S. at 602. Under Bradeen's theory and the district court's conclusions, the Bible is *per se* harmful to a minor, teaching the Bible is *per se* unreasonable for minors, and any

parent who dares share the Bible with her child is substantially and psychologically harming their child. *Such is not the law*.

Indeed, "[s]ince the decision in *West Virginia State Board of Education v. Barnette*, it has been the uniform judgment of every court reaching the question that if a teaching does not conflict with the fundamental law of the land a parent may not be deprived of the custody of a child because of the court's disagreement with such parent as to religious beliefs." *Smith v. Smith*, 367 P.2d 230, 233 (Ariz. 1961). The same is true with decision-making authority over a child's religious upbringing.

From whence does Bradeen derive his suggestions of roving and omnipotent authority to deprive Christian parents of their parental authority because they teach the Bible? Apparently, *Prince v. Massachusetts*, 321 U.S. 158 (1944). (Appellee Br. 25-26.) *Prince* says no such thing, and—in fact—compels the contrary conclusion. In *Prince*, the Court noted that its decision was limited to the purportedly dangerous practice of open proselytizing in the public streets by children. 321 U.S. at 170-71. Bradeen contends that *Prince* articulated an across-the-board standard that anything that might be "wholly inappropriate for children" because it runs the risk of "emotional excitement and psychological or physical harm" provides the State carte blanche to prohibit parents from exercising their fundamental parental rights. (Appellee Br., 25.) *Prince* did no such thing.

In fact, *Prince* explicitly and unequivocally proclaimed that it was providing no such authority to the State.

> *Our ruling does not extend beyond the facts the case presents. We neither lay the foundation for any (that is every) state intervention in the indoctrination and participation of children in religion' which may be done in the name of their health and welfare no give warrant for every limitation on their religious training and activities.* The religious training and indoctrination of children may be accomplished in many ways, some of which, as we have noted, have received constitutional protection through decisions of this Court. These and all others except the public proclaiming of religion on the streets, if this may be taken as either training or indoctrination of the proclaimer, remain unaffected by the decision.

Id. at 171 (emphasis added). *Prince* provides no refuge for Bradeen's desire or the district court's decision to prohibit Bickford from taking Minor Child to Calvary Chapel or any other Church. This Court must reject Bradeen's defunct suggestion.

D. The district court's best-interest determinations constitute an abuse of discretion.

Bradeen contends that the district court did not abuse its discretion because it used the relevant best interest factors to determine that Bradeen should have unfettered veto power over any decision Bickford makes regarding Minor Child's religious upbringing. (Appellee Br., 32.) Each of those determinations was, itself, derived from the unconstitutionally hostile views of Bickford's religious beliefs, and thus equally unconstitutional. (Appellee Br., 32 (claiming that the religious "messages" Minor Child has received "pose an immediate risk of significant psychological harm to her," that Bickford's belief in "the promise of salvation" is

unsafe for Minor Child, that Bible-believing churches are "not psychologically safe" for Minor Child, and that Bradeen's hostility towards Biblical teaching makes him purportedly better suited to "weigh the psychological effects" of the Bible on Minor Child).) Because each of these is inescapably intertwined with Bickford's religious beliefs, the district court's decision is unconstitutional and unlawful and punishes Bickford for her religion. (*See* Brief of Appellant, 23-33.) In essence, the best interest determinations made by the district court punished Bickford for Biblically grounded beliefs and impermissibly entered the "private realm of family life which the state cannot enter." *Prince*, 321 U.S. at 165-66.

II. The District Court's Decision Is Not The Least Restrictive Means.

Bradeen contends that the district court's decision was "narrowly tailored" because it was not a "total prohibition on religious education or upbringing." (Appellee Br., 34.) In essence, Bradeen contends that because Bickford can allegedly select *other* Churches, the prohibition on attending her *chosen* Church is narrowly tailored. This is incorrect factually and legally.

First, Bradeen fundamentally and intentionally misrepresents the district court's order. (Appellee Br., 34.) Bradeen claims that the "only restriction was that Mr. Bradeen has allocated decision-making over whether [Minor Child] can affiliate with Calvary Chapel." (*Id.*) This is blatantly false. (App. 042 ("given Ms. Bickford's history of relinquishing her independent decision making to Calvary Chapel, Mr.

Bradeen is awarded the right to make final decisions regarding [Minor Child's] participation in *other churches and religious organizations*" (emphasis added)).) The district court's order is therefore a total prohibition on Bickford's fundamental right to direct the religious upbringing of Minor Child. Absent permission from Bradeen, who is demonstrably and openly hostile to teaching Minor Child the Bible, Bickford has no right to make decisions on taking Minor Child to church or teaching her the Bible. (*See, e.g.*, Appellee Br., 8 (objecting to "teach[ing] the Bible 'verse by verse, chapter by chapter'"); *id.* (objecting "because the church studies the Old Testament); *id.* (objecting that the Church "teaches that people can only be saved by meeting God on God's terms).) In other words, Bradeen has demonstrated his wholesale objections to the Old Testament and the New Testamen—*i.e.*, his wholesale objections to the whole Bible.

While the district court spoke in terms of shared custody and decision-making over religious instruction and activities generally, the district court's order completely stripped Bickford of any right to make an independent decision over Minor Child's religious upbringing, whether Minor Child is in her physical custody or not. It gave Bradeen—who objects to the entire Bible and to prayer (Appellee Br., 8)—veto power over Bickford's decisions to attend ***any Church or religious organization***. That is a total prohibition on Bickford's religious decision-making authority and is not the least restrictive means.

In addition to being incorrect factually, Bradeen's contentions (and the district court's order) are insufficient to satisfy the strict scrutiny standard. It is not enough that the restriction is narrowly tailored. Rather, because the district court's analysis impacted a fundamental right, the district court was required to find that its decision to prohibit Bickford from attending Calvary Chapel or any other Church with Minor Child is the "least restrictive means" of achieving its purported interest in preventing the alleged harm the so-called "cult" expert concluded was inherent in a Bible-believing Church. *E.g.*, *State v. Maine State Troopers Ass'n*, 491 A.2d 538, 542 (Me. 1985) (strict scrutiny requires that the decision be "narrowly drawn so that it is the least restrictive means of achieving the compelling government interest"). Leaving aside that an absolute prohibition on religious worship at a specific church on the basis of its religious beliefs is not a compelling interest, a total prohibition is never the least restrictive means. Bradeen fatally admits that a total prohibition cannot be the least restrictive means. (Appellee Br., 34 (arguing that the only reason the district court's decision was narrowly tailored is because it was "not a total prohibition on religious education or upbringing"). Yet, the district court's actual order gives Bradeen unfettered discretion to prohibit Bickford from taking Minor Child to ***any Church*** is a total prohibition on Bickford's ability to make any decision regarding Minor Child's religious education, instruction, or activities at Church. She must go hat in hand to the very individual who objects to prayer and the Bible to ask if she

may take Minor Child to "any church or religious organization." That is a total prohibition in every sense of the word and is not the least restrictive means.

CONCLUSION

For the foregoing reasons, the district court's is unconstitutional and must be reversed.

Dated: June 6, 2025

/s/ David M. Hirshon
David M. Hirshon, Esq.
Maine Bar No. 1036
Hirshon Law Group, P.C.
P.O. Box 124
Freeport, ME 04032-0124
(207) 865-4852
dhirshon@hirshonlawgroup.com

/s/ Daniel J. Schmid
Mathew D. Staver*
Daniel J. Schmid*
Richard L. Mast*
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
(407) 875-1776
court@lc.org
dschmid@lc.org
rmast@lc.org
*Admitted pro hac vice

Attorneys for Appellant Emily A. Bickford

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2025, I caused a true and correct copy of the foregoing Reply Brief of Appellant to be served, pursuant to Maine Rules of Appellate Procedure and the Court's Briefing Schedule Notice, via electronic mail on all counsel of record.

/s/ David M. Hirshon
David M. Hirshon, Esq.
Maine Bar No. 1036
Hirshon Law Group, P.C.
P.O. Box 124
Freeport, ME 04032-0124
(207) 865-4852
dhirshon@hirshonlawgroup.com

/s/ Daniel J. Schmid
Mathew D. Staver*
Daniel J. Schmid*
Richard L. Mast*
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
(407) 875-1776
court@lc.org
dschmid@lc.org
rmast@lc.org
*Admitted pro hac vice

Attorneys for Appellant Emily A. Bickford