

Nos. 14-14061-AA & 14-14066-AA

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

JAMES BRENNER, CHARLES JONES, STEVEN SCHLAIRET, et al.,
APPELLEES,

v.

JOHN H. ARMSTRONG, CRAIG J. NICHOLS, AND HAROLD BAZZELL, IN
THEIR RESPECTIVE OFFICIAL CAPACITIES AS: SEC'Y, FLA. DEP'T OF
HEALTH; SEC'Y, FLA. DEP'T OF MGMT. SERVS.; AND CLERK OF CT.
AND COMPTROLLER FOR WASHINGTON CNTY. FLA., APPELLANTS.

SLOAN GRIMSLEY, JOYCE ALBU, BOB COLLIER, et al., APPELLEES,

v.

JOHN H. ARMSTRONG AND CRAIG J. NICHOLS, IN THEIR RESPECTIVE
OFFICIAL CAPACITIES AS: SEC'Y, FLA. DEP'T OF HEALTH; AND SEC'Y,
FLA. DEP'T OF MGMT. SERVS., APPELLANTS.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA, CIVIL CASES NOS. 4:14-CV-00107-
RH-CAS & 4:14-CV-138-RH-CAS (HONORABLE ROBERT J. HINKLE)

**BRIEF OF AMICUS CURIAE ROBERT OSCAR LOPEZ SUPPORTING
APPELLANTS AND REVERSAL**

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Appeal Nos. 14-14061-AA, 14-14066-AA

Brenner v. Sec'y, Fla. Dep't of Health, Grimsley v. Sec'y Dep't of Health

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

Amicus Curiae Robert Oscar Lopez, pursuant to 11th Cir. R. 26.1-1, certifies that the following is a list of those who have an interest in the outcome of this case and/or appeal:

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American Civil Liberties Union Foundation, Inc.

American Civil Liberties Union Foundation of Florida, Inc.

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Albu, Joyce

Alliance Defending Freedom

Anderson, Ryan T.

Andrade, Carlos

Armstrong, Dr. John H.

Ausley McMullen

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Brenner v. Sec'y, Fla. Dep't of Health, Grimsley v. Sec'y Dep't of Health

Babione, Byron J.

Bazzell, Harold

Becket Fund for Religious Liberty

Bledsoe, Jacobson, Schmidt, Wright & Wilkinson

Bondi, Pamela Jo, Attorney General of Florida

Boyle, David

Bradley, Gerard V.

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Church of Jesus Christ of Latter-day Saints

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Cooper, Leslie

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DeMaggio, Bryan E.

Dewart, Deborah J.

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Brenner v. Sec'y, Fla. Dep't of Health, Grimsley v. Sec'y Dep't of Health

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Ethics & Religious Liberty Commission of the Southern Baptist Convention

Fitschen, Steven W.

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Florida Conference of Catholic Bishops, Inc.

Florida Family Action, Inc.

Gantt, Thomas, Jr.

George, Robert P.

Gibbs, David C. III

Girgis, Sherif

Goldberg, Arlene Goldwasser, Carol (deceased)

Goldberg , Suzanne B.

Goodman, James J., Jr.

Graessle, Jonathan W.

Grimsley, Sloan

Hankin, Eric

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Hinkle, Hon. Robert L.

Hueso, Denise

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Marriage Law Foundation

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Mihet, Horatio G.

Milstein, Richard

Myers, Lindsay

National Association of Evangelicals

Newson, Sandra

Nichols, Craig J.

North Carolina Values Coalition

Picarello, Anthony

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Rosenthal, Stephen F.

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Sauer, D. John

Save Foundation, Inc.

Schaerr, Gene C.

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Tanenbaum, Adam S.

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Trent, Edward

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United States Conference of Catholic Bishops

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This amicus does not know all the people above, or their positions, but is partially drawing on the interested-persons lists of others, and also adding in, e.g., new amici he did not see on others' lists. If anyone is missing from the list, or anyone is there but should not be, please feel free to let this amicus know.

This amicus is an individual who issues no stock, and who has or is no parent corporation, or any publicly held corporation that owns 10% or more of stock of that nonexistent parent corporation.

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CASES

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Grimsley v. Sec’y, Fla. Dep’t of Health, No. 14-14066-AA (4:14-CV-138-RH-CAS, 999 F. Supp. 2d 1278 (N.D. Fla. 2014)).....1

CONSTITUTION

U.S. Const. as a whole.....1

RULES

Fed. R. App. P. 29.....1 n.1

OTHER AUTHORITIES

Askme, You’re only against gay marriage because of your religion. Part 3 Gender Identity, asktheBigot, Aug. 20, 2012, <http://askthebigot.com/2012/08/20/gender-identity/>.....16

Askme, You’re only against gay marriage because of your religion. Part 4- Biology Matters, asktheBigot, Aug. 20, 2012, <http://askthebigot.com/2012/08/20/biology-matters/>.....17

Jeremy Deck, *My Father’s Closet*, Boundless Webzine (courtesy of Internet Archive Wayback Machine), undated but apparently from c. 2000, <http://web.archive.org/web/20120109091049/http://www.boundless.org/2000/features/a0000417.html>..... 19

Donor Conceived, *Child of lesbian parents*, AnonymousUs.org, July 17, 2013, <http://anonymousus.org/stories/story.php?sid=1554#.UpmL7FCUQ4y>.....21-22

Maggie Gallagher, *Adult Children Speak Out About Same Sex Parents*, Cath. Exch., 2004 (and copyright 2014), <http://catholicexchange.com/adult-children-speak-out-about-same-sex-parents>.....18-19

The Hum. Rts. Campaign, *The Regnerus Fallout—Who Was Involved* (2013), <http://www.regnerusfallout.org/who-was-involved>.....25-26

* Robert Oscar Lopez, *Growing Up With Two Moms: The Untold Children’s View*, Public Discourse, The Witherspoon Inst., Aug. 6th, 2012, <http://www.thepublicdiscourse.com/2012/08/6065/>.....8, 17-18, 24

R.O. López, *La Joie de Vivre 1:3 -- The Manifesto of Manuel Half, son of a gay father and surrogate mother*, Nov. 16, 2013, 9:56 p.m., <http://englishmanif.blogspot.com/2013/11/la-joie-de-vivre-13-manifesto-of-manuel.html>.....20-21

R.O. López, *La Joie de Vivre 2:10 -- Kids of Gay Couples Speak Out, Part 2 of 4--*
RIVKA EDELMAN, BOBBY LOPEZ, DAWN STEFANOWICZ, Mar. 24, 2014, 7:49
p.m., [http://englishmanif.blogspot.com/2014/03/la-joie-de-vivre-210-kids-of-
gay.html](http://englishmanif.blogspot.com/2014/03/la-joie-de-vivre-210-kids-of-gay.html).....17

R.O. López, *Le Figaro runs confessional of man raised by lesbians, who opposes
gay marriage now*, English Manif, Jan. 11, 2013, 8:58 a.m., [http://englishmanif.
blogspot.com/2013/01/le-figaro-runs-confessional-of-man.html](http://englishmanif.blogspot.com/2013/01/le-figaro-runs-confessional-of-man.html).....15-16

Loren Marks, *Same-sex parenting and children’s outcomes: A closer examination
of the American Psychological Association’s brief on gay and lesbian parenting*,
41 Soc. Sci. Res. 4, July 2012, at 753-751.....14

Jennifer Wolff Perrine, *Many couples struggle with infertility in silence*, Women’s
Health on NBC News, updated Aug. 5, 2010, 9:47 PM,
[www.nbcnews.com/id/38311820/ns/health-womens_health/t/many-couples-
struggle-infertility-silence/#.U3Of121dBzw](http://www.nbcnews.com/id/38311820/ns/health-womens_health/t/many-couples-struggle-infertility-silence/#.U3Of121dBzw).....11

Steve Robson, *Andy Cannon, 23, was sexually abused by his gay adoptive parents*,
Daily Mail (United Kingdom), Mar. 28, 2013, updated 6:39 p.m., [http://www.
dailymail.co.uk/news/article-2300779/My-adoptive-dad-abused-years-social-
workers-ignored-complaints-hes-gay.html#ixzz2Rcaydhzw](http://www.dailymail.co.uk/news/article-2300779/My-adoptive-dad-abused-years-social-workers-ignored-complaints-hes-gay.html#ixzz2Rcaydhzw).....23-24

Denise Shick, *Denise’s Story*, 2011, courtesy of Internet Archive Wayback Machine, <http://web.archive.org/web/20120404123248/http://www.help4families.com/crisis.htm>.....19-20

Paul Sims, *Gay couple left free to abuse boys - because social workers feared being branded homophobic*, Daily Mail (United Kingdom), Sept. 5, 2007, updated 9:53 p.m., <http://www.dailymail.co.uk/news/article-480151/Gay-couple-left-free-abuse-boys--social-workers-feared-branded-homophobic.html#ixzz2RccQApyQ>.....22-23

“Debbie Smith”, *A Daughter’s Reflections About A Gay Father* (undated), DawnStefanowicz.org, <http://www.dawnstefanowicz.org/pdfs/DebbieSmith’s AUTOBIOGRAPHY.pdf>.....20

Test. by Dawn Stefanowicz, Conn. Gen. Assemb. Judiciary Comm. Pub. Hr’g, Mar. 26, 2007, *available at* <http://www.dawnstefanowicz.org/docs/R000326-DawnTMY.pdf>.....16

Dave Thomas Found. for Adoption, *INFOGRAPHIC: US CHILDREN IN FOSTER CARE WAITING TO GET ADOPTED* (citation omitted), Aug. 9, 2013, https://www.davethomasfoundation.org/news_story/infographic-u-s-children-in-foster-care-waiting-to-get-adopted/.....11

STATEMENT OF THE ISSUE

Whether the national Constitution requires Florida to allow same-sex marriage.

STATEMENT OF INTEREST OF AMICUS CURIAE

I, Robert Oscar Lopez,¹ write this Brief Supporting Appellants and Reversal, to ask that the Court respect Florida's upholding the original definition of marriage as between one man and one woman. My interest in these cases, *Brenner* and *Grimsley*, stems from my experience as a child raised by a lesbian with the help of her female partner for seventeen years, and from my experience as an outspoken university professor who challenged the social-science consensus that supposedly proved there were "no disadvantages" to being raised by gay or lesbian parents.

ARGUMENT

My personal life story is not the main source for my position before the Court. My position against same-sex marriage stems more from my experience as a scholar and archivist compiling the testimonials of people raised by same-sex couples (I affix here a collection of such), and my observations of how academic researchers have collaborated with gay activist organizations like the Gay and Lesbian Alliance Against Defamation and the Human Rights Campaign to commit

¹ I wrote the vast majority of this brief without help from any other party or its counsel, though my own counsel gave editing, formatting, or other help at the end; and no party or its counsel gave money to its writing or submission, *see* Fed. R. App. P. 29. All parties have sent permission to Amicus to write this brief.

character assassinations against such children who come forward with negative feedback.

American courts must change course and refocus debate on children's rights, rather than on eclectically defined "outcomes" that cannot capture the deep human significance of having a mother and father. In the present climate of suppressed expression it is unwise to place children under the power of same-sex couples since there are many parties in society devoted to erasing or hiding things that go wrong in their homes. Moreover, such harsh conditions mean that research into this area has to be thrown out—we cannot respect a social-science consensus based on an academic system that openly punishes people who truthfully challenge it. The failure of the academic establishment to foster free speech and honesty in this area is twofold: Not only have they allowed many people raised by same-sex couples to be persecuted by the organizations that claim to fight for them; also, they have destroyed the academic system on which we would have relied for guidance in determining whether children have a right to a mother and father.

I. My Experience Growing Up

I will explain my life history here to clarify where I developed a personal interest in same-sex parenting.

My mother was a Puerto Rican psychiatrist and my father was a Filipino psychiatrist. Their marriage was falling apart by 1971, when I was born. By my earliest memories, my father did not live in our home and had minimal contact with me. We did not practice regular shared custody. By the time I was two years old, my mother was in a stable, supportive, healthy lifelong relationship with another woman, whom I saw quite regularly and viewed as a third parental figure. Because my father was absent and my mother was not as emotionally interested in me as her partner was, I developed a stronger emotional attachment to her lesbian lover than I did to my own mother.

My mother and her partner were tactful and sensitive about assuring that their relationship did not cause me undue stress. They maintained separate houses in town until I was a teenager and only moved in together when I was finishing high school. They did share camping space in a recreational vehicle park about forty minutes away from our town, however, and we spent all our weekends together as a family. While my older siblings did not bond emotionally with my mother's partner, I did, and to me, for all intents and purposes, this was the family I grew up with.

Had I been formally studied by same-sex parenting "experts" in 1985, I would have confirmed their rosier estimations of LGBT family life. During my childhood and adolescence I presented the outward signs of a successful

upbringing. Inducted into the National Honor Society, I was president of the French and Spanish clubs, editor-in-chief of the high school newspaper for two straight years, and graduated one year early from high school, ranking ninth out of hundreds of graduating seniors. I attended four proms; in fact I do not know of any other classmate in my Williamsville community that attended that many. I was accepted by Yale University and arrived there in 1988 as an emancipated seventeen-year-old. Today I am a tenured university professor, a published author, and going on fourteen years in my life's only marriage -- to the same woman who gave birth to my two children, a daughter, and recently, a newborn son.

Behind these façades of a happy “outcome” lay many problems.

Even in the conditions of my home, which represent in many ways the best possible conditions for a child raised by a same-sex couple, I experienced a great deal of sexual confusion. I had an inexplicable compulsion to have sex with older males, which manifested in 1984, when I had my first sexual encounter with two older teenage boys in my bedroom. One of the boys ended up having to go to the hospital for alcohol poisoning after my mother discovered us naked and entangled.

I was exposed to gay culture from an early age because my mother and her lover had a number of lesbian friends. My mother was a devotee of Catholic liberation theology and placed me in contact with priests and nuns who had radical

ideas about sexuality and gender, sometimes referring to God as “She” and speaking in frank terms about the beauty of homosexual relationships. In her work as a psychiatrist my mother also wanted to help poor lesbians and often blurred the boundaries between personal and professional work, sometimes offering our home as a safe refuge for mentally ill lesbians.

By 1985 and 1986, I had moved past teenagers and wanted to have sex with older men who were my father’s age, though at the time I could scarcely understand what I was doing. There was a bookstore in our neighborhood that had a pornography section where I went regularly to find older men. I believe it was around 1987 that I first had a man offer me payment in exchange for having sex in the back of his van. My first time being paid for sex brought me a mix of shame and further compulsion. I became a habitual sex worker by the age of sixteen in various cruising spots where older men told me I could find other customers; these included public parks, the bathrooms in 24-hour supermarkets, community sports centers, and certain spaces in Lockwood Library of the State University of New York at Buffalo, where I had sex with graduate students, janitors, and professors well over twice my age.

The money I received for sex certainly helped me financially because it allowed me certain spending money beyond what I earned with my teenage jobs at a pizzeria and in my mother’s clinic. But the money was not as impactful as the fact

that I needed to feel loved and wanted by an older male figure, even if for only as short as a half hour.

I did not have psychological problems or drug problems, but the sexual problems of my adolescence became compounded after my mother died in 1990. Her inheritance was stuck in New York State's surrogate courts. She had appointed her female lover the executor of the estate and then signed a codicil about ten years later, appointing my father as executive of the estate. In the ensuing conflicts, my mother's lover had to move out of the house she had shared with my mother. I also ended up homeless.

In 1992 I was able to return to Yale for my final year. I completed my degree in Political Science with a B+ average and found consistent full-time work between 1993 and 1998.

In 1998, I found out I had cancer and had to be rushed into surgery at Montefiore Hospital in the Bronx. The tumor was severe, according to the doctor, and had to be removed right away. At that instant, I called my father rather than my mother's lover. After twenty-seven years of estrangement and absence, we rebuilt our relationship. He took care of me after the surgery and liberated me, in a sense, from the gay "family" that had been positive but also toxic. Being able to say, "you are my father" to him meant the world to me. I moved in with him while

I underwent extended treatment at Roswell Park Cancer Institute in Buffalo, and we were able to re-create my childhood between 1998 and 2000; in 2000 I moved in with my girlfriend who would later become my wife. (She still is today.)

As early as ten years ago, I developed a clear stance on homosexual relationships. A civil union or some kind of state recognition would have helped my mother and her partner. Yet the traditional marriage laws in New York State as they existed back then prevented my mother and her partner from entirely cutting my father out of my life. The latter reality proved pivotal because my re-establishment of ties to my father in 1998 led to a transition in my life, from being lost and sexually confused to being stable and romantically fulfilled. For that reason I can support same-sex civil unions and some kinds of foster care for gay couples, but I object strenuously to marriage and adoption for gay couples. Both marriage and adoption involve using the force of the state to force unwilling children into emotional relationships with people who are not their parents—and this coercion is permanent, hurtful, and discriminatory, insofar as all children have a mother and father but children placed in same-sex-couple homes are stripped of one of these two figures without their consent. Every stated goal of the gay marriage movement – to honor relationships, to respect how people are born (i.e., “born” gay), and to refrain from telling people whom they should love – leads me to oppose gay marriage. We must honor the universal relationship between

children and their father and mother. We must respect the fact that children are “born that way” with a mother and father, always. Lastly, we must not tell children that they have to love adults who are not their parents simply because these gay adults say they love them and want to have custodial powers over them.

II. The Impossibility of Finding a “Clean” Sampling of Kids Raised by Same-Sex Couples

In 2012, I went from privately holding these beliefs to publicly speaking out. My mother had died 22 years earlier and my honorable discharge from the U.S. Army Reserves on July 15, 2012, gave me the freedom to speak openly on sensitive matters without risking reprimands. The first step was publishing “Growing Up with Two Moms” in *Public Discourse*. Unfortunately at that time, most discussion of gay parenting focused on the controversial study conducted by Mark Regnerus at the University of Texas at Austin. It is my understanding that the rejection of his scholarship played a significant role in some lower courts’ decisions to overturn various States’ marriage laws.

I was not involved in Mark Regnerus’s study and I do have serious objections to his confusing bisexual with gay and lesbian life histories. This is significant since both my mother and I lived bisexual lives. Nonetheless, I can speak to a few points about Mark Regnerus as a person and what I witnessed as a

friend of his during 2012 and 2013. Despite the flaws in Mark Regnerus's research model, he and Walter Schumm are the only scholars studying alternative family structures, who have ever agreed to speak with me. This holds true even though I know that many other researchers must know of my existence. I am on quite prominent blacklists published by the two most powerful gay rights organizations in the United States – Gay and Lesbian Alliance against Defamation, and Human Rights Campaign. Though I have a doctorate, went to Yale, have tenure, and have compiled dozens of life histories involving same-sex parenting, I have been dismissed, quite often rudely, by researchers who keep claiming to know a great deal about the impact of same-sex parenting on children.

Mark Regnerus has been attacked not for what he failed to find, but rather, for what he included. He found a large number of people of color who were involved in same-sex parenting homes, as well as people who lived real-life complexities that other researches peremptorily suppressed (more than two parental figures, living in separate houses, gay parents breaking up, etc.) In other words, unlike every other researcher in this field, Mark Regnerus seeks to understand every person he comes across who had a gay or bisexual parent. All the others go looking for families that suit a prescribed profile – they must be a stable, picture-perfect gay couple that doesn't have any of the complicating factors that actually happen in real life. Hence the rejection of Mark Regnerus's work is not a

defense of gay families; it is a slap in the face of the vast majority of us who come from gay families and cannot seem to be heard by researchers who expect us to fit a narrow and suffocating mold.

Having said all that, Mark Regnerus's study ends up falling prey to what ruined all the other research into children of gay parents. The question being asked was always whether children of gay parents made a good impression on adults – do they have good grades, are they well-liked by peers, do they seem confident and “well adjusted”? All of these measurements reflect what adults want out of children. None of these measurements can possibly capture the grave injustice being done to a child whose father or mother has been permanently taken away.

A child can go to Harvard and still have lost something very precious, which adults did not have the right to take away. Grades, incomes, and “well-adjusted” appearances are superficial and unimportant when it comes to human dignity. The question is not whether a child needs a mother and father, as if adults with agendas can ever be sensible about defining how much a child ought to have. Every child *has* a mother and father, even if one of these was someone who abandoned the child, died, was a mere sperm donor, or gestated the child for pay.

For the child of a same-sex couple, this individual is not a number or a hypothetical – this is a real person with a face, a name, a history, an origin story,

and a cultural meaning. In my case, the missing father was an entirely different race. I found myself, in college, longing so badly to know about the Philippines that I helped to found the Filipino Intercollegiate Network for Dialogue.

For other children of same-sex couples, the longing and yearning for the lost parent of the opposite sex takes other forms, because their situation is different.

Some of them are adoptees who, like so many other adoptees, feel an inexplicable need to find their original parents, often with a mix of anger and longing. For adoptees placed in same-sex couple homes, the long-recognized challenges felt by adoptees are compounded by the gender imbalance of the adoptive home. It is not necessary, given the long waiting lists of heterosexual couples who wish to adopt, ever to place a child in the adoptive home of two same-sex individuals.

According to the Dave Thomas Foundation for Adoption, there were 101,719 foster children in the United States eligible for adoption, as of August 9, 2013. (See map at *INFOGRAPHIC: US CHILDREN IN FOSTER CARE WAITING TO GET ADOPTED* (citation omitted), Aug. 9, 2013, https://www.davethomasfoundation.org/news_story/infographic-u-s-children-in-foster-care-waiting-to-get-adopted/.)

Yet in 2010, NBC News reported that 1.1 million American women sought fertility treatment in any given year, so there is clearly an inexhaustible number of heterosexual homes that could be recruited as adoptive homes for these children. (See Jennifer Wolff Perrine's article, *Many couples struggle with infertility in silence*, Women's Health on NBC News, updated Aug. 5, 2010, 9:47:19 a.m., www.nbcnews.com/id/38311820/ns/health-womens_health/t/many-couples-struggle-infertility-silence/#.U3Of121dBzw.)

Given that placement in same-sex couple homes is not necessary, it is unjust to force a child who has been entrusted to the state to live without a mother or without a father. The moment the adoption becomes legal, then the chance of having a mother or father is permanently foreclosed, and the adoptee can never reverse this act of deprivation, which is then added to the initial trauma that caused the loss of his birth family. The child grows up knowing that everyone else has a mother and father, but he doesn't, because the people who are raising him and say they love him took one of those away from him, forever.

In a case where one member of the same-sex couple is the child's biological parent and the couple wants to "jointly" adopt the child, the adoption is a form of coercion. Now the child, in addition to having permanently lost the link to a biological parent of the opposite sex, must submit to the authority and control of a new parent who may or may not dispense of such power with generosity. In my

conversations with over thirty people raised by a biological parent and a non-biologically related gay partner, I have identified a clear trend: children don't want to be forced into an emotional relationship with the non-related gay partner. Notwithstanding some fondness that may develop, they adapt to that person and do their best to respect him or her, so that they can nurture their relationship with their parent. But they almost never feel comfortable calling this essential step-parent "Mom" or "Dad," and do not like being ordered around by the step-parent or expected to speak with the same intimacy they show to their original parent. So the entire notion that gay people must get married so they can adopt each other's children is fatally flawed. This is the state forcing kids into emotional situations they do not want to be in. It isn't freedom or "protection," but rather, coercion.

After compiling the testimonials and stories of people raised by same-sex couples, I reject entirely the social-science consensus. My main rejection of the social-science consensus comes from the reality that:

(1) their metrics cannot reflect the deeper, unquantifiable pains experienced by children in such homes even if they look happy on paper;

(2) many children of same-sex couples are under pressure to make their parents look good and internalize this pressure, so they cannot be trusted to provide frank answers, plus we know from various press accounts of child abuse by same-sex

couples that often children raised in such homes are actively coached to provide answers to outsiders;

(3) the quantifiable negative outcomes on children often do not manifest until they are adults, particularly in their late twenties and beyond, at which time most of the social-science researchers are no longer willing to include them in their studies;

and

(4) the social-science researchers like to exclude the life histories of children raised by same-sex couples who do not fit rigid particulars, which end up misrepresenting the likely experience of children who are forced by the state into the care of gay couples. In my case, when I debated same-sex parenting, people have repeatedly suggested that my case is not applicable in any general sense, due to the fact that my mother and her partner chose to live in separate houses despite co-parenting me, and the fact that my mother died when I was still a teenager. Because Mark Regnerus and Doug Allen *did* include such complicated cases in their sample, they were pilloried rather than credited for reversing a long-standing problem with social-science methodology in this area (*see* Loren Marks' study published in July 2012, *Same-sex parenting and children's outcomes: A closer examination of the American Psychological Association's brief on gay and lesbian parenting*, 41 Soc. Sci. Res. 4, at 735-751).

In my travels working with children from alternative family structures, I find it impossible to come across a pristine case of a child raised by two same-sex adults without any mitigating factor like a divorce, third-party reproduction, adoption, or death of a parent; therefore I argue that the subject pools gathered by social-science researchers are at best rarified and handpicked or at worst the product of basic academic fraud.

Below I attach a partial bibliography of testimonials, stories, and news items about children raised by same-sex couples, to show the repeated pattern of complexities. (There are many more examples which there is not room to put here.) These family structures are so complex and specific that it is virtually impossible to reduce them to statistics, meaning that the social-science consensus is, at this point, utterly worthless.

III. Annotated Bibliography

A. ADULTS

***1) *Jean-Dominique Bunel* (raised by lesbians):**

... “You see, two rights collide: the right to a child for gays, and the right of a child to a mother and father. The international convention on the rights of the child stipulates in effect that “the highest interest of the child should be a primary consideration” (article 3, section 1). Here this ‘higher interest’ leaves no doubt ... **I would have jumped into the fray and would have brought a complaint before the French state and before the European Court of the rights of man,**

for the violation of my right to a mom and a dad.” Le Figaro
(10/01/13)

R.O. López, *Le Figaro runs confessional of man raised by lesbians, who opposes gay marriage now*, English Manif, Jan. 11, 2013, 8:58 a.m., <http://englishmanif.blogspot.com/2013/01/le-figaro-runs-confessional-of-man.html> (last visited November 20, 2014, as with all other Internet links herein).

***2) Dawn Stefanowicz (raised by gay father):**

. . . Though I was deeply disappointed with my father and his partners’ sexual behaviors, I couldn’t say anything negative about my dad or the homosexual lifestyle. For a time, I coped by being performance oriented and denying the influences around me, pretending I could rise above everything.

Test. by Dawn Stefanowicz, Conn. Gen. Assemb. Judiciary Comm. Pub. Hr’g, Mar. 26, 2007, *available at* <http://www.dawnstefanowicz.org/docs/R000326-DawnTMY.pdf>.

***3) Katy Faust (raised by lesbians):**

In addition to the distinct and complimentary ways that men and women parent, children need both sexes in their immediate world as they develop their own gender identity. It’s strongly held within the social sciences that beginning as early as age three, children can (and should) identify with their same-sex parent.

Askme, *You’re only against gay marriage because of your religion. Part 3 Gender Identity*, asktheBigot, Aug. 20, 2012, <http://askthebigot.com/2012/08/20/gender-identity/>;

Flip this around- not every marriage produces children, but every child had a father and a mother. Our definition of the family unit should reflect this biological reality and developmental necessity.

Askme, *You're only against gay marriage because of your religion. Part 4-*

Biology Matters, asktheBigot, Aug. 20, 2012, <http://askthebigot.com/2012/08/20/biology-matters/>.

***4) Rivka Edelman (raised by lesbians):**

But I think that what Dawn was saying is that no matter which way you slice it, whether it was the social or the political or the sexual, it was always about *them*. When you sent me the questions, I looked up some stuff. One thing I found was this tiny quote from this woman, somewhere in New England, some scholar in New England, and she says something to the effect of, “gay parents tend to be more motivated and committed than heterosexual parents, because they really want those kids.” And I thought to myself, that just shows how this woman supposedly – I guess she’s heterosexual, I don’t know – this woman academic absorbs the gay community’s hatred of women. And even the lesbians, in a weird way, they hated heterosexual women.

R.O. López, *La Joie de Vivre 2:10 -- Kids of Gay Couples Speak Out, Part 2 of 4--*

RIVKA EDELMAN, BOBBY LOPEZ, DAWN STEFANOWICZ, Mar. 24, 2014, 7:49 p.m., <http://englishmanif.blogspot.com/2014/03/la-joie-de-vivre-210-kids-of-gay.html>.

***5) Robert Oscar Lopez (raised by lesbians):**

Quite simply, growing up with gay parents was very difficult, and not because of prejudice from neighbors. People in our community didn’t really know what was going on in the house. To most outside

observers, I was a well-raised, high-achieving child, finishing high school with straight A's.

Inside, however, I was confused. . . .

Robert Oscar Lopez, *Growing Up With Two Moms: The Untold Children's View*, Public Discourse, The Witherspoon Inst., Aug. 6th, 2012, <http://www.thepublicdiscourse.com/2012/08/6065/>.

***6) Bronagh Cassidy (raised by lesbian mothers):**

Back in 1976, Cassidy's mom had a religious ceremony with a woman named Pat. To make Cassidy, they did artificial insemination at home, mixing the sperm of two gay friends "to make sure nobody would ever know who the father was," says Cassidy. (That was in the days before widespread DNA testing.) The two women stayed together for 16 years, until Pat died. Three years later, Cassidy's mother married a man.

What was it like for Cassidy being raised by two women she called "Mom" and "My Pat"? . . .

"When growing up, I always had the feeling of being something unnatural," Cassidy says. "I came out of an unnatural relationship; it was something like I shouldn't be there. On a daily basis, it was something I was conflicted with. I used to wish, honestly that Pat wasn't there."

Why does she oppose same-sex marriage? "It's not something that a seal of approval should be stamped on: We shouldn't say it is a great and wonderful thing and then you have all these kids who later in life will turn around and realize they've been cheated. The adults choose to have that lifestyle and then have a kid. They are fulfilling their emotional needs — they want to have a child — and they are not taking into account how that's going to feel to the child; there's a clear difference between having same-sex parents and a mom and a dad."

Maggie Gallagher, *Adult Children Speak Out About Same Sex Parents*, Cath. Exch., 2004 (and copyright 2014), <http://catholicexchange.com/adult-children-speak-out-about-same-sex-parents>.

***7) Jeremy Deck (raised by gay father):**

It is this side of the story that I feel compelled to tell. Children of homosexuals have a unique vantage point on the complexities of the issue. Homosexuals are often able to surround themselves with like-minded individuals in the thriving gay culture. Spouses, parents, or siblings of homosexuals do not usually immerse themselves in a homosexual environment once their loved ones “come out.” Children, however, are in a sense forced to live a lifestyle they have not chosen.

...

Jeremy Deck, *My Father's Closet*, Boundless Webzine (courtesy of Internet Archive Wayback Machine), undated but apparently from c. 2000, <http://web.archive.org/web/20120109091049/http://www.boundless.org/2000/features/a0000417.html>.

***8) Denise Shick (raised by gay father):**

My dad was a cross dresser when I was a child. This made me feel very uncomfortable around him growing up. This confused me with his role of a father in my childhood. I just wanted him to be my “dad”.

I learned after his passing that he was in a homosexual relationship. This was another dilemma for me to deal with. Even though he had passed on, it seemed like another chapter of his life was revealed to me. I had questioned this to myself growing up. I never told anyone about myself questioning “if he was gay”. Now the truth was there on pen and paper.

There are many of us going through [sic] this situation. There are many of us out there. Don't think the Gender Identity Disorder does not exist or hurt people.

Denise Shick, *Denise's Story*, courtesy of Internet Archive Wayback Machine, 2011, <http://web.archive.org/web/20120404123248/http://www.help4families.com/crisis.htm>.

***9) “Debbie Smith” (raised by gay father):**

How is a young woman supposed to deal with homosexual pornography that she finds in her father's closet? Is this something that one talks about in private conversations? I never talked about it until I got into counseling years later. Or what does one do when dear old Dad asks you to type up some things that he's written, and it turns out to be pornographic in nature? The desire to please and obey parents is overridden by the disgust felt upon reading this trash. How can your own father think like this? It is difficult not to feel polluted by the experience and wonder if, somehow, you are not damaged goods because of the corruption of your father's mind.

What about the lack of positive feedback regarding females and femininity? As I look back, even when my brother and I were young, there was little interaction between my father and I. There were few compliments about the way I dressed or acted in ways that were affirming. Expressions of emotion were rare, unless they were angry rants about his job, his relationships or other challenges in his life.

“Debbie Smith”, *A Daughter's Reflections About A Gay Father* (undated), DawnStefanowicz.org, <http://www.dawnstefanowicz.org/pdfs/DebbieSmith's AUTOBIOGRAPHY.pdf>.

B. KIDS

***1) Manuel Half (raised by gay father):**

You stand up for the idea of a father without a mother, which is, without a mother, no father at all, but something else. And it, that mother, you say, matters for nothing--don't think of her at all: And don't look for her among people made from fathers and mothers, since you say they suffer with their fathers and mothers.

And you say that I am the example and model that proves your full and healthy wholeness, which you built at the cost of my my full and healthy wholeness.

R.O. López, *La Joie de Vivre 1:3 -- The Manifesto of Manuel Half, son of a gay father and surrogate mother*, Nov. 16, 2013, 9:56 p.m., <http://englishmanif.blogspot.com/2013/11/la-joie-de-vivre-13-manifesto-of-manuel.html>.

***2) Anonymous Girl, “Donor Conceived” (raised by lesbians):**

I have gay parents.

I spend most of my time at my best friends house. I hang out with her Dad cuz I never had one and he is this awesome guy. My friends Dad is a lot like Charlie from Twilight! I cried when I read about Bellas father in the books and in all his scenes in the movies. Mostly at my friend's house it feels like I can just be myself. Someone has to say it cuz I dont hear it but gay parents are selfish in a way. They dont think what it's going to be like for me to live in their world.

Am I the only one who feels this way? Am I a bad daughter because I wish I had a Dad? Is there anyone else who has 2 Moms or 2 Dads who wonders what it would be like if they were born into a normal family? Is ther anyone else who wants to be able to use the word normal without gettin a lecture on what is normal???

I dont know my real father and never will. Its weird but I miss him. I miss this man I will never know. Is it wrong for me to long for a father like my friends have? She has two brothers I play basketball with all the time. It feels so amazing to be included in their family. When I am there I think this is what its like to be in a family that has a

Mom and a Dad. Then I have have to go home to my own world. I just dont fit in it anymore.

Donor Conceived, *Child of lesbian parents*, AnonymousUs.org, July 17, 2013,
<http://anonymousus.org/stories/story.php?sid=1554#.UpmL7FCUQ4y>.

**C. CHILD ABUSE BY GAY PARENTS WHO WERE NOT INITIALLY
INVESTIGATED THOROUGHLY, SINCE AUTHORITIES FEARED
APPEARING “BIGOTED AGAINST GAYS”**

***1) Gay Couple Left Free to Abuse Boys Because Social Workers Feared
Being Branded Homophobic:**

A homosexual foster couple were left free to sexually abuse vulnerable boys in their care because social workers feared being accused of discrimination if they investigated complaints, an inquiry concluded yesterday.

Craig Faunch and Ian Wathey were one of the first homosexual couples in the country to be officially approved as foster parents.

....

Even when the mother of two of the children reported her suspicions to the council, officials accepted the men's explanations and did nothing.

....

In a scathing report published yesterday, Wakefield Metropolitan District Council was condemned for treating the men as “trophy carers”.

The children’s charity Kidscape said those in charge of overseeing the safety of children in the care of Faunch and Wathey had allowed political correctness to override common sense.

The report, following an independent review of the case, said: “One manager described the couple as ‘trophy carers’ which led to ‘slack arrangements’ over placement.

“Another said that by virtue of their sexuality they had a ‘badge’ which made things less questionable.

“The sexual orientation of the men was a significant cause of people not ‘thinking the unthinkable’.

“It was clear that a number of staff were afraid of being thought homophobic.

“The fear of being discriminatory led them to fail to discriminate between the appropriate and the abusive.”

....

Wathey, 42, was jailed for five years in June last year after being convicted of four counts of sexual activity with a child and one offence of causing a child to watch sexual activity.

Faunch, 33, received a six-year jail sentence after he was found guilty of five charges of engaging in sexual activity with a child and two of taking indecent photographs of a child.

Paul Sims, *Gay couple left free to abuse boys - because social workers feared being branded homophobic*, Daily Mail (United Kingdom), Sept. 5, 2007, updated 9:53 p.m., <http://www.dailymail.co.uk/news/article-480151/Gay-couple-left-free-abuse-boys--social-workers-feared-branded-homophobic.html#ixzz2RccQApYQ>.

***2) My Adoptive Dad Abused Me for Years but Social Workers Ignored My Complaints Because He’s Gay:**

A boy sexually abused by his adoptive father and his gay partner was labelled an ‘unruly child’ by social workers who ignored his complaints for years, a damning report has revealed.

....

Mr [Andy] Cannon said: ‘I believe if my adoptive dad was in a heterosexual relationship then my complaints would have been listened to earlier.

‘It seems the council didn’t want to be seen as victimising gay people – they would rather look politically correct and let them get away with it to avoid any repercussions.[’]

Steve Robson, *Andy Cannon, 23, was sexually abused by his gay adoptive parents*, Daily Mail (United Kingdom), Mar. 28, 2013, updated 6:39 p.m., <http://www.dailymail.co.uk/news/article-2300779/My-adoptive-dad-abused-years-social-workers-ignored-complaints-hes-gay.html#ixzz2Rcaydhzw>.

IV. The Rhetorical Climate for Critics of Same-Sex Parenting

In addition to the testimonials or news items affixed in the list *supra*, there are dozens of other people raised by same-sex couples who have communicated with me, but they do not want to reveal their names or even have their stories recorded.

The reason for people's fear of being named can be illustrated by what happened to me since I published "Growing up with two moms" in *Public Discourse* in 2012. Scott Rosenzweig (or "Rose"), a blogger who was then with the *New Civil Rights Movement*, sent over ten emails to my university accusing me of "hate speech," "bullying," and "gay bashing," usually copying dozens of other people including high officials in the California State University and parties in the state capital. Rosenzweig placed an open records request to my university and was able to gain access to many of my work emails that I had never intended to make public. It was only through pressure from my pro bono lawyer that we were able to prevent the names and personal details of over eighty individuals who had emailed me about their experiences from being released to Rosenzweig. Rosenzweig is not a minor player in this conflict – he was the one who filed a complaint with the

University of Texas at Austin and was able to place Mark Regnerus's entire data set under investigation (which cleared Mark Regnerus in the end).

In August 2012, Karen Ocamb, a blogger at *Frontiers LA*, posted a photograph of me with a headline saying, "perhaps you know this man," then naming my workplace—it felt to me like an invitation for people to harass or even attack me physically. Jeremy Hooper, Zack Ford, and Wayne Besen are all powerful gay bloggers with a high national profile, who have followed my blogs and social media and written articles accusing me of being "anti-gay." Jeremy Hooper often writes to people to say that I compared gay parents to slave-owners, which is a gross oversimplification of work I did applying my scholarly expertise in early African American literature to the history of family formation. Now people who Google me pull up links to countless postings that define me as anti-gay.

The Human Rights Campaign lists me on the "Regnerus Fallout" page *The Regnerus Fallout—Who Was Involved* (2013), <http://www.regnerusfallout.org/who-was-involved>, detailing the ostensible misdeeds of people who collaborated with Mark Regnerus to demean same-sex parents. Though I had no involvement in the study except that I published one essay that contained eight paragraphs addressing Darren Sherkat's dismissal of Mark Regnerus's findings, I am listed under HRC's compilation of "Who was involved" in the Regnerus study, and my picture is affixed there along with the repeated claim that I compared gay parents

to slave-owners. The Gay and Lesbian Alliance Against Defamation placed me on their Commentator Accountability Project list. When this list was published, Rosenzweig sent an alarmist email to my university president and a host of other school officials, saying that I was insane and students should not be willing to study with me.

When I was invited to speak at the College of Holy Cross, I was later told by the students who wanted to bring me there that administrators would not approve my visit. Students at Stanford invited me to speak at a conference and were quickly barraged with alarming emails from GLAAD, again claiming that I compared gay parents to slave-owners, and saying that I was anti-gay and intimating that inviting me to campus was akin to bigotry. Due to this smear campaign, Stanford's undergraduate and graduate student bodies denied funding to the student group that invited me.

At the department level, I had to be reviewed for tenure by a committee member who is openly gay and who received all the accusatory emails from Scott Rosenzweig. During the tenure review I was repeatedly pressured to explain my politics and told that my "personal revelations" posed a problem for my teaching. This went into the record even though the department did vote to give me tenure.

The references to “personal revelations” appeared again in letters at higher levels of review so these have become part of my personnel file.

Children raised by same-sex couples face a gauntlet if they break the silence about the “no disadvantages” consensus. In such a climate, I must conclude that placing children in same-sex couples’ homes is dangerous, because they have no space or latitude to express negative feelings about losing a mom or dad, and in fact they have much to fear if they do. It is clear to me that almost nobody will be willing to report abuses in such homes or even listen to the children who are receiving the abuse.

I must also conclude that the same-sex parenting consensus is not a consensus at all. We cannot in good faith accept the findings of sociologists who undertook work in a climate marked by repression and persecution of children raised by same-sex couples who have information running contrary to the desired conclusion that same-sex parenting is safe and uniformly positive.

The same-sex parenting positions put forward by politically compromised groups such as the American Psychiatric Association and the American Sociological Association are misleading and should be thrown out. We have ample reasons based on humanitarian grounds to respect the relationship of a child to his mother and father, especially in the context of a debate in which gay activists are

asking for people to respect their sexual relationship to each other. It is not necessary to do additional research to find that something precious and important has been taken from a child who is forced to live without a mother or father, and the state has no business encouraging such a taking.

For these reasons, please abide by the Florida marriage laws.

CONCLUSION

This amicus respectfully asks the Court to reverse the judgment of the court below.

November 21, 2014 Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that he electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on November 21, 2014.

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Thank you for your time.