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 BRIEF OF APPELLANT EMILY A. BICKFORD

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INTRODUCTION

The question in this case is simple: does a district court have the authority to prohibit a parent from taking her child to Church? While the answer should have been obvious, what follows is a tragic tale where that is precisely what occurred. This district court found that, under the guise of amending parental rights and responsibilities, it possessed authority to prohibit an unquestionably fit parent from taking her minor child to religious worship services at her Church. The authors of our founding Charter would be aghast to think a mother could be deprived of her right to attend religious worship services with her daughter, yet that is precisely what happened below. The First Amendment quite simply means the following: "***Neither a state nor the Federal Government can . . . force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance***

or non-attendance." *Everson v. Bd. of Educ. of Ewing Tp.*, 330 U.S. 1, 15-16 (1947) (emphasis added).

The district court's order runs roughshod over this fundamental principle and prohibits Appellant from taking her daughter to religious worship services at a specific Church on the basis that Appellant's Church teaches from the Bible, holds sincere religious convictions based upon the Bible, and prays in the presence of minors. To the district court, such religious practices inflict psychological harm on

a minor. *That cannot be.* The First Amendment demands a different result, and so, too, should this Court. The district court should be reversed.

STATEMENT OF FACTS

A. Procedural History.

This case centers around the district court's decision to amend parental rights and responsibilities between Appellant Emily A. Bickford ("Appellant" or "Bickford") and Appellee Matthew A. Bradeen ("Appellee" or "Bradeen"). (Appendix, "App.," 116.) Several motions were presented to the district court below concerning parental rights and responsibilities over the Parties' daughter ("Minor Child"). Though the Parties shared responsibility over decisions concerning Minor Child's religious upbringing, Bradeen moved the court to withdraw Bickford's right to make any decisions about Minor Child's religious

upbringing or over her medical care. (App. 116.) After the initial proceedings, "only the issues of religious and medical decision making [were left] for the court's determination." (App. 117.) The district court entered its Amended Parental Rights and Responsibilities Order on December 13, 2024. (App. 116.) Bickford timely appealed.

B. The District Court's Order.

1. The district court's findings concerning Bickford's Church, Calvary Chapel.

In May 2021, Bickford started attending Calvary Chapel Church in Portland ("Church" or "Calvary Chapel"). (App. 117.) The district court found that Bickford

made that decision on her own and did not seek input regarding the decision to exercise her religious beliefs at that Church. (*Id.*) Bradeen wanted to know more about the Church and its teachings and asked Bickford for additional information. (*Id.*) The district court noted that Bickford informed Bradeen that the Church was Calvary Chapel. (*Id.*)

Bradeen conducted research to educate himself about the teachings of the Church and watched several of Calvary Chapel's religious worship services on Facebook. (*Id.*) The district court found that Bradeen was concerned about Calvary Chapel because the Church describes its worship services as "teach[ing] the Bible verse by verse, chapter by chapter." (App. 118.) The district court noted that Bickford's

Church teaches the Bible and includes sermons and messages that discuss warfare, fallen angels, and eternal suffering. (*Id.*) The district court noted that the Church studies the Old Testament, wherein some stories involve physical conflict depicted in those chapters. (*Id.*) The district court found that there are images of warfare displayed on the screens in the sanctuary. (*Id.*) The district court also noted that Calvary Chapel's pastor testified that he preached about Hell and does not skip over the passages in the Bible that include descriptions involving "wailing and gnashing of teeth," "burning and torment," and "perpetual pain and regret." (*Id.*) The

district court found that Calvary Chapel teaches that people can only be saved by meeting [G]od on [G]od's terms."[1](*Id.*)

The district court made a factual finding that Calvary Chapel teaches, according to the Bible, that there will be a second coming of Christ, which will involve seven years of hell on earth under the reign of the beast called the anti-Christ. (*Id.*) The district court found that these messages are reinforced through Calvary Chapel's curriculum for children, which contains "workbooks with images, including images of 'fallen angels,' or demons." (*Id.*)

The district court noted that Bickford takes Minor Child to religious worship services on Sunday, and a weekly religious service on either Friday or Wednesday, depending on the week. (App. 119.) The district court noted that at some of these religious worship services individuals have given testimony of their religious experiences and exercise. The district court noted that some of Calvary Chapel's testimonies have included married couples sharing their story of how they were

[1] Throughout its Order, the district court references God with all lowercase letters. Bickford respectfully submits that this, too, suggests hostility towards Bickford's religious beliefs. Though Bickford seeks not to impugn the stylistic preferences of the district court, "a capital G is normally reserved for literal references to the supreme being (or Supreme Being, when referring to a specific God) worshipped according to any of a number of monotheistic religions." Chicago Manual of Style, §8.91 (17th ed. 2017). While a lowercase "g" typically denotes multiple purported divinities from mythology. Thus, the continuous reference to Bickford's God as "god" throughout the order, Appellant respectfully submits this betrays some disdain and hostility for Bickford's monotheistic religious beliefs.

"saved" and from what they were saved. (*Id.*) Stories of childhood sexual and physical trauma, gay and lesbian relationships, and infidelity have been discussed during these sessions.

C. The district court accepted a blatantly hostile "expert's" findings that Calvary Chapel is a "cult."

Dr. Janja Lalich[2] provided testimony to the district court concerning her opinion that Calvary Chapel, a mainstream religious denomination with thousands of churches throughout the United States, was a "cult." (App. 119.) Lalich

attempted to avoid using the word "cult"—perhaps because of its demeaning connotation—but the district court nevertheless found that her testimony demonstrated that Calvary Chapel was "a cultic organization." (*Id.*)

Lalich testified that within closed social systems there is customarily a charismatic and authoritarian leader who delivers the message of a transcendent belief system - a belief system that offers answers as to the past, present, and future and promises some sort of salvation. (App. 120.) The district court noted that, after studying Calvary Chapel, Lalich came to the opinion that it is a prime example of a closed social system that follows the "Moses model." (*Id.*) In the "Moses model," the district court found pastors have unquestioned authority and are not accountable

[2] Lalich is a Ph.D. in "human and organizational systems," and a purported expert on "recruitment and indoctrination processes, rules, and regulations." (App. 119.)

to the parishioners, any other pastors, or overseeing organizations. (*Id.*) "Because the pastor is only accountable to God, the members cannot question him." (*Id.* (cleaned up).) The district court made a factual finding, based on the so-called cult expert's testimony, that the sermons at Calvary Chapel are filled with "hateful rhetoric" - homophobia, disdain of science, and hatred of public schools. (*Id.*) As to the district court's own interpretation of Calvary Chapel, it found that Calvary Chapel's pastor presented as "charismatic," that "he spoke fast, passionately, at

length, and authoritatively," and that he "had answers for all the questions posed to him and answered those questions in manner that suggested that there could be no other truth than the message he was delivering." (*Id.*) According to the district court, these articulated attributes of Calvary Chapel's pastor contributed to its finding that Calvary Chapel was a cult. (*Id.*)

D. The district court found that Bickford's Minor Child was psychologically harmed from attending religious worship services at Calvary Chapel.

The district court largely based its finding of alleged harm to Bickford's Minor Child on the basis of the so-called cult expert's opinion that Calvary Chapel was a cult. (App. 121.) Lalich testified, and the district court accepted as fact, that the potential that Minor Child will be harmed by the messages she is receiving (*i.e.*, religious sermons that come from the Bible) is "evident." (*Id.*) The district court also accepted as fact the conclusions of Lalich that Bickford's Minor Child cannot

voluntarily participate in religious worship services. (*Id.*) Lalich does not believe that Minor Child's participation in Calvary Chapel is entirely voluntary because Minor Child "bears witness to her mother's unfailing devotion to the teachings of the organization." (*Id.*) The so-called expert also opined that Bickford "imposes pressure on [Minor Child] to comply and conform to being a good church

member." (*Id.*) The district court concluded its findings of harm by contending that "the 'fear mongering,' paranoia, and anxiety taught by Calvary Chapel has, more likely than not, already had an impact on [Minor Child's] childhood development." (*Id.*)

E. The district court found that Bickford's religious beliefs preclude her from acting in Minor Child's best interest.

The district court made the explicit finding that Bickford's religious beliefs preclude her from acting in the best interests of Minor Child. "[T]he court finds that [Bickford's] beliefs about Calvary Chapel's teachings have eclipsed her ability to make decisions that are in [Minor Child's] best interests." (App. 123.) It stated that Bickford "does not see [Minor Child's] anxiety" because she "believes that [Minor Child] should not be experiencing any anxiety because the practice of prayer should alleviate" it. (*Id.*) And, in making the conclusion that Bickford's control over Minor Child's religious upbringing was causing harm to Minor Child, the district court specifically referenced Bickford taking Minor Child to a religious worship service at Calvary Chapel where the Pastor prayed for Bickford and Minor Child about the custody dispute that occurred below. (*Id.*)

F. The district court found that specific prayers at Calvary Chapel harmed Minor Child.

In addition to the district court's finding that Bickford's religious beliefs were psychologically harmful to Minor Child, the district court took its findings a

step farther and specifically referenced the content of religious prayers as harmful to Minor Child. (App. 123.) During the service the district court used as evidence of Bickford's religious beliefs harming Minor Child, Calvary Chapel's pastor led the congregation in a prayer regarding what the district court noted was "the custody battle" between the Parties. (*Id.*) The district court also noted that Bickford permitted Minor Child to attend the worship service where the pastor prayed for her, going so far to explicitly note that Bickford "never remov[ed] her from the sanctuary." (*Id.*) The district court discussed that the prayer "involved several minutes" of the Pastor's "reflections on the custody battle." (*Id.*) The district court also stated that it was "objectively inappropriate for [Minor Child] to hear" the prayer in worship service. (*Id.*)

The district court quoted the prayer in its entirety:

> Hey good evening, brothers and sisters. Let's, um, let's begin by prayer. There is a dear sister in the church. You guys know Emily Bickford and for months in preparation for what really is a, is a, I guess a custody battle. There's been 50/50 with dear [Minor Child]. Eleven-year-old [Minor Child] who's been with the church *family.* She's had teen camp with the teenagers this past weekend and [Minor Child] grown in the lord. Ands Emily's made a priority that when she has the custody over her daughter that they're here. And they're here all the time. But [Minor Child's] father has had a difficult time with that. We've been praying

> for Matt and his salvation for a long time and it's kind of had this culmination point which has been, actually today was the first of what will be a, a two-day trial, and so half of the day today from one o'clock on, a handful of the ladies, [names redacted], they got to sit in

the, in
the court as, as you know, witnesses on behalf of the church, on behalf of Emily and [Minor Child]. But it's a unique situation because you guys probably are aware that justice is so much now in the hands of a judge and no matter what area of civilization, culture, politics, you're looking at, that can go one way or the other depending on who appointed that judge. So, the, the what would seem to be an obvious constitutional, both federally and as a state level, you, you look at article one, section three of the Maine State Constitution that every individual has a holy and divine right and responsibility to worship God according to their own conscious - but things have changed in our culture and so really the, the issue is - and it's going to be put in the hands of a judge - is can Emily take her daughter to a Bible teaching church? And sadly, again, you wouldn't think that would be an issue. And one of the things that has happened is the – Matt's side, [Minor Child's] father - has hired what they call an expert witness and this expert witness out of California was hired for a large sum of money to find any dirt they can on Calvary Chapel, on Pastor [name redacted] and on, on, on myself and on, on [Minor Child's] faith and Emily's faith. And you read that twenty-page expose and at times it is almost laughable because of they're how, just you know, reaching and striving for anything. But it's not laughable because this is going to be brought before a judge. And depending on where this judge stands with God and his word will depend on how the decision goes forth. So I'm bringing this up to you all because today was day one. And you know, you know, Emily's got great confidence in a big and great God, but Friday is day two and I, I'll actually have the opportunity to, I guess the saying is "take the stand," and, and answer questions including from a lawyer who has read this twenty-page expose from the expert witness. So, this is a unique situation we are living in. You wouldn't think this is the, the nation that we, that you know, founded by godly men and women. Uh, it's hard to take God's word out of almost every area of our government. I mean, courthouses have scripture written on them. But this isn't really an attack on Emily, or [Minor Child], or Calvary Chapel. This is really an attack on God's word and so our prayer would be that the judge would have a little bit of a, I don't know, conscious conflict and realize this - that fundamental we are, if fundamental means that we stick to the

scripture, and fundamental we are if we believe that God is the head of the church. So, I'm hoping that justice will prevail, but I'm asking you guys, in case this is the first time you're hearing of it- I know many of you have not - you, you have been alongside Emily and [Minor Child] through this. I really ask you guys to be in prayer, especially Friday. Am I, am I correct in saying 9 a.m.? It kinds of kicks off, it could go all day. [audience member inaudible] Okay, so most of the day on Friday. Would you guys please be in prayer? One, we obviously pray for Miss Emily. That God would keep her in perfect peace. You can imagine all the emotion, all the derogatory things, all the, all the accusations. Certainly for, for [Minor Child]. We pray for her. You know, I was talking to Emily on the phone earlier today. We were texting back and forth and you think about - we, we talk often about how the church as a whole has only grown through persecution. You look through church history and as the enemy seeks to, you know, crush and, and quench, and strangle the church, the church grows through it. That's always been the case. Individually, that's true also. It's hard to imagine that when you're 11-years-old, 11-years-old and you, you're dealing with a level of persecution that young [Minor Child] is dealing with. So, we pray that God would use that in her life and, and would continue to strengthen her faith. But would you, church family, join me now? Let's pray that God would have his hand on this family and that justice would prevail. Biblical justice would prevail. Would you guys pray with me? Lord, we lift this entire hearing up to you and Lord I, I know Emily's heart has been that she would gladly go through every bit of the stress and anxiety if it meant the salvation of Matt or some of the lawyers involved, or Lord anyone, anyone in the hearing of this hearing. Lord, I pray that. We, we pray would you use this for your good, that a soul might be saved. Lord, we pray for Emily, that her mind and her heart would, would be fixed on you. Lord, by the Holy Spirit in her and upon her that Lord, she would have great courage as she has today and will continue Friday. Give her the words to speak. Lord, I pray for [Minor Child]. Thank you for her. It's undeniable to all of us looking on, Lord, her faith is real as real can be. Lord, she believes in the Living God and so thank you for how you have done that in her life. I pray as the enemy seeks to destroy and dismantle, that Lord you would work all things together for good, and what the enemy means for evil, Lord, you would actually bring to good. And bring to nothing the plans and the snares and the tricks of the enemy. I pray Lord as I have an

> opportunity to testify on behalf of the ministry here and on behalf of the Bickford
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> family. What I've seen Emily and [Minor Child] accomplish, Lord, as they have made this a priority to be in the fellowship of believers and to be under the authority of God's word. I pray you'd give me clarity by the Holy Spirit. Please, Lord, would justice prevail? Lord, we trust you. Whatever the outcome might be, Lord, we trust you and we pray, Lord, that your people bring a holy remembrance to all of us on Friday. That we'd be reminded to pray for such a family, such a cause. And we ask these things in Jesus name, amen.

(App. 123-125.)

The district court opined that this "statement" "does several things:" (1) it characterized the disagreement between [the Parties] as a battle," (App. 125); (2) "suggests to [Minor Child] that there is a 'right' or good' side, and a 'wrong' or 'evil' side, just as there are 'good' and 'evil' sides in the battles about which he has sermonized," (*id.*), and (3) suggested that this prayer placed Bradeen on the "bad side" while placing Bickford on the "good side," which had readily apparent psychologically harmful aspects. (*Id.*)

The district court stated that the pastor's prayer "reinforces this fear by likening [Bradeen] to the 'enemy' who seeks to crush, quench, and strangle the church and [Minor Child's] faith," and notes that the prayer refers to Bradeen's actions as the "snares and tricks of the enemy." (App. 126.) "This vivid imagery, especially considering the images of demons in [Minor Child's] workbooks, evokes visions of violence perpetrated by [Minor Child's] father. Again, the risk of psychological

harm to [Minor Child] is obvious." (*Id.*) The district court found that

the pastor's prayer was "sad" and that it was "influenced by the fact that at no point did Ms. Bickford remove [Minor Child] from the congregation" for the prayer. (*Id.*)

G. The District Court's Finding On Medical Decisions.

The district court's general factual findings concerning Bickford's religious beliefs infused its decisions concerning medical care. The district court explicitly noted that Bickford's religious beliefs suggest she is "unlikely" to seek mental health counseling or other medical treatment. (App. 122-123.) It further noted that Bickford's medical decision-making was based on her "emotions," because she did not desire for Minor Child to receive the Covid vaccine. (App. 127.) But the district court found—contrary to the cited references above—that there is "no evidence that Ms. Bickford's religious beliefs or practices have played a role in her decision making." (App. 126.)

H. The District Court's Ultimate Finding.

Based on the foregoing factual findings, the district court entered the following order:

> Mr. Bradeen is allocated the right and responsibility to make decisions regarding whether [Minor Child] attends *any services, gatherings, or events associated with Calvary Chapel*; whether and what material, literature, video, or other messaging associated with, or created or published by, Calvary Chapel she reviews; *and whether she associates or communicates with any member of Calvary Chapel other than Ms.*

> *Bickford*. As to [Minor Child's] participation in any other church or religious organization, or [Minor Child's] exposure to the teachings of *any religious philosophy or of the Bible in general* - the parties shall continue to share parental rights and responsibilities and are required to jointly research the church, organization, or teachings and discuss
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> whether [Minor Child's] participation and exposure is in her best interests. However, 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 in the event of a dispute between the parties.

(App. 123 (emphasis added).) The district court granted final decision-making authority over Minor Child's medical care to Bradeen. (*Id.*)

ISSUES PRESENTED FOR REVIEW

(1) Whether the district court's order that demonstrates explicit hostility towards the sincerely held religious beliefs of an unquestionably fit parent and uses that intolerance and discrimination against religious beliefs to deprive that fit parent of the fundamental right to direct the religious upbringing of her minor child violates the First Amendment to the United States Constitution and therefore constitutes an abuse of discretion and clear error of law.

(2) Whether the district court's order that demonstrates explicit hostility towards the sincerely held religious beliefs of an unquestionably fit parent and uses that intolerance and discrimination against religious beliefs to deprive that fit parent of the fundamental right to direct the religious upbringing of her minor child

violates the Fourteenth Amendment to the United States Constitution and therefore constitutes an abuse of discretion and clear error of law.

(3) Whether the district court's order that deprived a custodial parent of her right to attend the religious worship services of her choosing during periods of lawful

custody and provides a heckler's veto over a fit parent's right to direct the religious upbringing of their minor child violates the First and Fourteenth Amendments to the United States Constitution.

(4) Whether the district court's order finding that teaching a minor child mainstream and conventional religious beliefs, based on the Bible, constitutes psychological harm is a plain and unmistakable injustice so apparent as to be instantly visible without argument.

(5) Whether the district court's order depriving an unquestionably fit parent of her right to make medical decisions in the best interest of her minor child on the basis of analysis that is unquestionably infused with religious hostility commits an abuse of discretion and error of law.

STANDARD OF REVIEW

This Court reviews decisions relating to parental rights and responsibilities for an abuse of discretion, *Harmon v. Emerson*, 425 A.2d 978, 984 (Me. 1981);

Akers v. Akers, 44 A.3d 31, 312 (Me. 2012), and for "other error of law." *Smith v. Padolko*, 955 A.2d 740, 743 (Me. 2008). The review for an abuse of discretion involves three issues:

> (1) are factual findings, if any, supported by the record according to the clear error standard; (2) did the court understand the law applicable to its exercise of discretion; and (3) given all the facts and applying the appropriate law, was the court's weighing of the applicable fact and choices within the bounds of reasonableness.

McLeod v. Macul, 139 A.3d 920, 923-24 (Me. 2016) (quoting *Pettinelli v. Yost*, 930 A.2d 1074, 1078-79 (Me. 2007)). This Court has held that a district court commits an abuse of discretion and clear error of law where the decision "is plainly and unmistakably an injustice that is so apparent as to be instantly visible without argument." *Smith*, 955 A.2d at 743 (cleaned up). This Court has also directed that,

> [w]hen, as in this case, it appears to the [trial] court that an appropriate determination of custody will involve inquiry into the consequences of the religious practices of one of the parents, the court must be alert to the impact that its order concerning care and custody may have on that parent's fundamental rights under the due process clause of the fourteenth amendment to the United States Constitution and the religious freedom clause.

Osier v. Osier, 410 A.2d 1027, 1029 (Me. 1980). The district court erred under any measurable standard.

ARGUMENT

I. The District Court's Decision Is Plainly And Unmistakably A First Amendment Violation And Thus An Abuse Of Discretion.

The district court's overt hostility to Bickford's religious beliefs and the teachings and religious instruction of her Church, Calvary Chapel, renders its decision a blatant violation of the First Amendment. As the Supreme Court made clear nearly 80 years ago,

> The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. ***Neither can force nor influence a person to go to or to remain away from church against his will or***

> ***force him to profess a belief or disbelief in any religion***. ***No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance***.

Everson v. Bd. of Educ. of Ewing Twp., 330 U.S. 1, 15-16 (1947) (emphasis added). The district court's order explicitly prohibits Bickford from taking her child to Church, forces Bickford to remain away from Church against her will, punishes Bickford for professing certain religious beliefs, and punishes Bickford for church attendance solely on the basis of the religious beliefs that are professed at that Church. The First Amendment prohibits the district court's hostility towards religious beliefs, and the district court's order violates entrenched constitutional principles. It cannot stand.

A. The First Amendment affirmatively mandates tolerance of, and prohibits open hostility towards, religious beliefs.

The religion clauses of the First Amendment prohibit the government—

including the district court in this case—from expressing open hostility towards religious beliefs. The First Amendment "affirmatively mandates accommodation, not merely tolerance of, all religions and *forbids hostility towards any*." *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984)). This Court is simply prohibited from "read[ing] into the Bill of Rights such a philosophy of hostility towards religion." *Zorach v. Clauson*, 343 U.S. 306, 315 (1952). "[T]he government may (and sometimes must) accommodate religious practices," and "it may do so without violating the Establishment Clause." *Hobbie v. Unemployment Appeals Com.*, 480

U.S. 136, 144-45 (1987). The Free Exercise Clause, in particular, "requires government respect for, ***and noninterference with***, the religious beliefs and practices of our Nation's people." *Cutter v. Wilkinson*, 544 U.S. 709, 719 (2005) (emphasis added).

The district court's decision charted a different course, and expressed overt hostility towards Bickford's religious beliefs. The district court said it was "objectively inappropriate" for Bickford's daughter *to hear a prayer* at a religious worship service at Bickford's Church. (App. 123.) And, as demonstrated *infra*, the district court did not stop by calling prayer objectively inappropriate, but went step by-step through much of Calvary Chapel's mainstream religious views to suggest that a parent, such as Bickford, who holds such views and brings her child to a

Church that teaches such views is unworthy of the court's protection and unfit to make decisions regarding that child's religious upbringing. That is the definition of prohibiting the free exercise of religion, violates the First Amendment, and constitutes plain and reversible error. The district court's decision cannot stand.

B. The First Amendment plainly protects Bickford's right to direct the religious upbringing of her child as she sees fit, including by taking her to Church.

It is too late in the day to question that Bickford has the fundamental constitutional right to direct the religious upbringing of her child as she sees fit. *E.g.*, *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Soc'y of Sisters of the Holy Names*

of Jesus and Mary, 268 U.S. 510 (1925); *Prince v. Massachusetts*, 321 U.S. 158 (1944). Simply put: "the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society." *Wisconsin v. Yoder*, 406 U.S. 205, 213-14 (1972).

As the Supreme Court has recognized, "[t]he rights of children to exercise their religion, and of parents to give them religious training and to encourage them in the practice of religious belief" are sacrosanct, and constitute a "private realm of family life which the state cannot enter." *Prince*, 321 U.S. at 165-66.

In essence, the district court's order that precludes a fit parent, Bickford,

from directing the religious upbringing of Minor Child is "precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent." *Yoder*, 406 U.S. at 218.

C. The district court's conclusions that a child suffers psychological harm by attending church with mainstream Christian teachings from the Bible are clearly hostile towards religion, violate the First Amendment, and constitute an abuse of discretion.

1. Religious beliefs need not be logical or popular to warrant protection.

The district court's decision is largely based on the premise that Bickford's religious beliefs are not grounded in reality, contain "scary" stories, and are therefore psychologically harmful for Minor Child. This is incorrect. For one, "religious beliefs need not be acceptable, logical, consistent, or comprehensible to

others in order to merit First Amendment protection." *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981). And the First Amendment

> embraces the right to maintain theories of life and of death and of the hereafter which are rank heresy to followers of the orthodox faiths. Heresy trials are foreign to our Constitution. ***Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs.*** Religious experiences which are as real as life to some may be incomprehensible to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law. Many take their gospel from the New Testament. But it would hardly be supposed that they could be tried before a jury charged with the duty of determining whether those teachings contained false representations. The miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer

> are deep in the religious convictions of many. If one could be sent to jail because a jury in a hostile environment found those teachings false, little indeed would be left of religious freedom. The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious views.

United States v. Ballard, 322 U.S. 78, 86-87 (1944) (emphasis added). The district court's decision below essentially put Bickford to the test of the veracity and logic of her sincere religious beliefs. The First Amendment prohibits such an exercise.

2. Bickford's religious beliefs are mainstream Christian teachings that cannot be considered harmful as a matter of law under the First Amendment.

The district court suggested that Bickford's Church was psychologically harmful to Minor Child because it was a "cult." (App. 120.) This is incorrect factually and irrelevant legally.

For starters, the Supreme Court recognized in *Yoder* that traditional religious values that have existed for millennia cannot, by necessity, be deemed

psychologically harmful. "This case, of course, is not one in which any harm to the physical or mental health of the child . . . has been demonstrated or may be properly inferred. The record is to the contrary, ***and any reliance on that theory would find no support in the evidence***." *Yoder*, 406 U.S. at 230 (emphasis added). Such is the case here, but the district court used the so-called cult expert's testimony to contend that such harm does exist. *It doesn't.*

The district court's factual findings that Bickford's Church is a "cult" because it reflects a "Moses model," (App. 120), is as offensive as it is clearly incorrect. The Moses of the Bible has been recognized as a traditional religious figure who provided a significant contribution to American law. *See Van Orden v. Perry*, 545 U.S. 677, 688-89 (2005) ("We need only look within our own Courtroom. Since 1935, Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten

Commandments adorn the metal gates lining the north and south sides of the Courtroom as well as the doors leading into the Courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets."); *id.* (noting that statues of Moses adorn numerous federal buildings, including the Library of Congress, as recognition of his contribution to American law);

McCreary Cnty. v. ACLU of Ky., 545 U.S. 844, 874 (2005) ("our own courtroom frieze was deliberately designed in the exercise of governmental authority so as to include the figure of Moses holding tablets exhibiting a portion of the Hebrew text of the later, secularly phrased Commandments; in the company of 17 other lawgivers, most of them secular figures, there is no risk that Moses would strike an observer as evidence that the National Government was violating neutrality in religion").

Is the whole of the Republic a "cult" because it relied upon Moses and the Ten Commandments as jurisprudential underpinnings of American law? Is the Supreme Court a "cult" for hosting depictions of Moses on its building? Heaven forfend. Yet that was one of the bases upon which the district court found that Bickford's Church was a "cult" and prohibited Bickford from taking Minor Child there.

The district court then made a factual finding that Bickford's religious beliefs were psychologically harmful because her Church, Calvary Chapel, preaches sermons the district court viewed as "homophobic." (App. 120.) But there are a great many Americans of all religious stripes that hold sincere religious views that the

Bible does not permit homosexuality as a lifestyle. And the Supreme Court plainly

held that such beliefs are protected. *See Obergefell v. Hodges*, 576 U.S. 644, 679-80 (2015) ("it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revere."). The Supreme Court's admonitions in *Obergefell* would be hollow indeed if a district court is permitted to find as a matter of law that following those teachings is psychologically harmful and can deprive a parent of her fundamental rights on that basis.

The district court then further denigrated Bickford's religious beliefs by suggesting that because the pastor of her Church is "charismatic" and speaks "passionately, at length, and authoritatively," he is also cause for concern, particularly since he presented "that there could be no other truth than the message he was delivering." (App. 120.) Relatedly, the district court found that Bickford's religious beliefs were harmful because she believes in objective truth. (App. 121.) But this, too, is common among religious beliefs and practices. Churches often require—as a matter of constitutionally protected religious doctrine—that a pastor's

sermons be charismatic and "fire-y." *Palmer v. Liberty University*, 72 F.4th 52, 78 (4th Cir. 2023) (Richardson, J., concurring). And belief in objective truth is a fundamental component of *all* religion. *Welch v. United States*, 398 U.S. 333, 340 (1970) ("Most of the great religions of today and of the past have embodied the idea of a Supreme Being or a Supreme Reality—a God—who communicates to man in some way a consciousness of what is right and should be done, of what is wrong and therefore should be shunned.").

But, even if it was not, it is irrelevant. One's religious beliefs need not be proved objectively true to warrant First Amendment protection. *E.g.*, *Patrick v. LeFevre*, 745 F.2d 153, 157 (2d Cir. 1984) ("The freedom to exercise religious beliefs cannot be made contingent on the objective truth of such beliefs." (citing *Ballard*, 322 U.S. at 86). The district court put Bickford to an unconstitutional burden of proving that which believes and stripping her parental rights because she could not satisfy that unconstitutional test.

The district court found that Bickford's religious beliefs were harmful because she believed the Bible's passages that say only Believers in Jesus Christ go to Heaven. (App. 122.) This, too, is profoundly curious given that all major religions believe, in some form or another, that eternal life and Heaven are found in adherence to religious principles. And, even if that were not true, which it is, Bickford's religious beliefs in salvation and eternal life are fully protected by the

Amendment. *See Ballard*, 322 U.S. at 86-87 (the First Amendment protects religious beliefs about "theories of life and of death and of the hereafter," also protects the right to believe the truth of "the gospel from the New Testament," and protects religious convictions arising from "[t]he miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer.") The district court disregarded all of this and committed manifest error in doing so.

Simply put, the district court's factual conclusions regarding religious beliefs essentially put Bickford on trial for the truth and veracity of her sincerely held religious beliefs. The First Amendment absolutely prohibits this.

> In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect.

Watson v. Jones, 80 U.S. 679, 728-29 (1871).

As shown above, and discussed more fully *infra*, the district court also made a factual finding that it was "objectively inappropriate" for a minor to hear prayers from Bickford's pastor that reference mainstream religious thought. (App. 123.) This, too, is incorrect. For one, just recently, the United States Supreme Court

upheld the right of even public-school employees to engage in prayer in front of minors, and held that prohibiting him from doing so was unconstitutional. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022). And the practice of prayer in front of the public and

minors has been constitutionally protected since time immemorial. *See Town of Greece v. Galloway*, 572 U.S. 565 (2014). Using the fact that Bickford allows her Minor Child to hear prayers at a religious worship as a basis to contend Minor Child is suffering psychological harm simply violates the First Amendment.

Additionally, the district court found that Bickford's religious beliefs were harmful because she believes that there are things that are "good" and things that are "evil." (App. 125.) But that is the essence of religion. *E.g.*, *Africa v. Pennsylvania*, 662 F.2d 1025, 1033 (3d Cir. 1981) ("Traditional religions consider and attempt to come to terms with what could best be described as 'ultimate' questions-questions having to do with, among other things, life and death, right and wrong, and good and evil. Not every tenet of an established theology need focus upon such elemental matters, of course; still, it is difficult to conceive of a religion that does not address these larger concerns.").

Finally, and most offensively to the First Amendment, the district court went further and demonstrated hostility towards Bickford's religious beliefs in God by universally referring to Bickford's God as "god," including in a block quote of a

religious prayer in which Calvary Chapel's pastor was no doubt referring to the God of the Bible. (App. 123-125.) One struggles to believe this was unintentional or simply a stylistic choice. (*See supra* note 1.) It suggests that Bickford's religious beliefs were incorrect factually, harmful psychologically, and unworthy of

protection. The First Amendment prohibits this type of blatant and overt hostility towards religious beliefs that are prototypical of mainstream Christian denominations and other religions.

In addition to being incorrect factually, the district court's conclusions and findings are irrelevant legally. As the Supreme Court recognized in *Parham v. J.R.*, "Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state." 442 U.S. 584, 603-04 (1079) (emphasis added). And this is no less true merely because Bickford has made the decision to allow Minor Child to be raised in the nurture and admonition of the Lord, attend Calvary Chapel, and learn religious teachings. As Justice Souter noted,

> *Meyer*'s repeatedly recognized right of upbringing would be a sham if it failed to encompass the right to be free [from] a judge [who] believed he "could make a 'better' decision" than the objecting parent had done. ***The strength of a parent's interest in controlling a child's associates is as obvious as the influence of personal associations on the development of the child's social and moral character. Whether for good or for ill, adults not only influence but may indoctrinate***

> ***children, and a choice about a child's social companions is not essentially different from the designation of the adults who will influence the child in school. Even a State's considered judgment about the preferable political and religious character of schoolteachers is not entitled to prevail over a parent's choice***.

Troxel v. Granville, 530 U.S. 57, 78-79 (2000) (Souter, J., concurring) (emphasis added). "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism,

religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (emphasis added).

Contending that Bickford religious beliefs, which include prayer, reading the Bible, attending a mainstream Christian Church that teaches from the Bible, that teaches there is a path to salvation, and that believes in objective truth is psychologically harmful to a minor is, quite simply, outside the realm of judicial authority. What the district court's order has done is essentially compel what shall be orthodox in matters of religion for minor children, and through mere *ipse dixit* declared that the Christian religion is psychologically harmful. That decision is abhorrent to the First Amendment. The district court's religious belittling and hostile factual findings point to one inevitable conclusion: the decision below is "is plainly and unmistakably an injustice that is so apparent as to be instantly visible without argument." *Smith*, 955 A.2d at 743. It cannot stand.

3. Bickford's Church, Calvary Chapel, is a mainstream Christian denomination with traditional Christian views that are fully protected under the First Amendment.

As established *supra*, Bickford's religious beliefs are fully consistent with mainstream Protestant and Christian denominations. And the Church she attends, Calvary Chapel, is likewise a mainstream protestant denomination. But, even were it not, it is irrelevant. "Millions have fled to this country to escape persecution for

their unpopular or unorthodox religious beliefs." *Dr. A. v. Hochul*, 142 S. Ct. 552, 558 (2021) (Gorsuch, J., dissenting). And they did so for one reason: "America's promise that every citizen here is in his own country. To the protestant it is a protestant country; to the catholic, a catholic country; and the Jew, if he pleases, may establish in it his New Jerusalem." *Id.* (cleaned up).

4. Giving Bradeen a heckler's veto over Bickford's fundamental right to take her child to Church cannot be reconciled with the First Amendment.

The combination of the Religion Clauses demands reversal here. "A proper respect for both the Free Exercise and Establishment Clauses compels the State to pursue a course of neutrality toward religion." *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 696 (1994). "The First Amendment knows no heckler's veto." *Lewis v. Wilson*, 253 F.3d 1077, 1082 (8th Cir. 2001). Indeed, "the Establishment Clause does not include anything like a 'modified heckler's veto, in

which religious activity can be proscribed based on perceptions or discomfort." *Kennedy*, 597 U.S. at 534 (cleaned up). And, lest this Court believe that the tender years of Minor Child permits a different conclusion or somehow authorizes the heckler's veto the First Amendment plainly prohibits, the Supreme Court put that to rest in *Good News Club v. Milford Cent. Sch. Dist.*, 533 U.S. 98, 119 (2001) (holding that the First Amendment does not authorize a "modified heckler's veto" where

religious activity can be prohibited "on the basis of what the youngest members of the audience might misperceive").

The district court's decision below adopts this precise heckler's veto over Bickford's rights to bring her daughter to Church based on the reactions of Bradeen and his dislike of Bickford's Church and sincere religious convictions. Such a heckler's veto finds no support in the significant precedent establishing a custodial parent's right to convince their child of the correctness of her religious beliefs.

First, and importantly, parents "may indoctrinate children," and the district court's "judgment about the preferable political and religious character" of the parent's beliefs "is not entitled to prevail over a parent's." *Troxel*, 530 U.S. at 79.

Second, custodial parents have the right to take their child to whatever

Church or religious worship service they desire during their times of custody, and the district court is not empowered to deprive them of that right because the other parent does not share those religious views. The Pennsylvania court's decision in *Zummo v. Zummo*, 574 A.2d 1130 (1990) is instructive on this point. There, the court noted that "courts may not divine truth or falsity in matters of religious doctrine, custom, or belief, courts may not give weight or consideration to such factors in resolving legal disputes in civil courts." *Id.* at 1135. When parents share custody of a child, "each parent has parental authority during lawful periods of custody or visitation. Consequently, ***such a parent may pursue whatever course of religious***

indoctrination which that parent sees fit, at that time, during periods of lawful custody or visitation." *Id.* at 1140 (emphasis added). Indeed,

> One parent may be a Republican the other a Democrat, one may be a Capitalist the other a Communist, or one may be a Christian and the other a Jew. Parents in healthy marriages may disagree about important matters; and, despite serious, even irreconcilable, differences on important matters, the government could certainly not step in, choose sides, and impose an orthodox uniformity in such matters to protect judicially or bureaucratically determined "best interests" of the children of such parents.

Id. at 1139-40. The district court's order, however, did precisely this by finding that Bickford's religious beliefs and her attendance at Calvary Chapel was purportedly "psychologically harmful" to Minor Child because of its Christian beliefs in the

Bible. That decision is wholly irreconcilable with Bickford's First Amendment right to direct the religious upbringing of her child, and goes stridently against the majority of jurisdictions who have addressed this precise issue.[3]

D. There is *zero interest*, much less a compelling one, in prohibiting a mother from attending Church with her child.

As the Supreme Court made clear long ago,

> We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma. When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. . . . But we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence. The government . . . may not thrust any sect on any person.

[3] *See, e.g.*, *Kingston v. Kingston*, 2022 WL 17842293, at *14 (Utah Dec. 22, 2022); *Steinman v. Steinman*, 191 So. 3d 954, 956 (Fla. 4th DCA 2016); *In re Marriage of Minix*, 801 N.E.2d 1201, 1204 (Ill. App. Ct. 2003); *In re Marriage of Weiss*, 49 Cal. Rptr. 2d 339, 346 (Cal. Ct. App. 1996); *In re Marriage of Mentry*, 190 Cal. Rptr. 843, 846 (Cal. Ct. App. 1983); *Felton v. Felton*, 418 N.E.2d 606, 610 (Mass. 1981); *In re Marriage of Murga*, 163 Cal. Rptr. 79, 82 (Cal. Ct. App. 1980); *In re Marriage of Heriford*, 586 S.W.2d 769, 773 (Mo. Ct. App. 1979).

Zorach, 343 U.S. at 313-14. There can be no compelling interest in prohibiting Bickford from attending Church because it is blatantly unconstitutional to do so.

Here, the district court cannot wrap hostility towards religion in the cloak of "psychological harm" and used that to strip a parent of the fundamental right to make decisions concerning the religious upbringing of her minor child. There is no interest whatsoever, much less a compelling one, in the government prohibiting a fit parent, such as Bickford, from making decisions concerning a child's religious upbringing. That a parent's religious views might be offensive to some, or otherwise seem irrational to non-adherents does not, and cannot under the First Amendment, make them psychologically dangerous. It is too late in the day to question whether the First Amendment protects unorthodox or disagreeable views. And it is too late in the constitutional system to deprive a parent of her First Amendment rights on the basis

of her religious views. The First Amendment, and the entire Constitution, demands a different pecking order.

E. The district court's factual findings concerning the purported compelling interest precluding Bickford from taking her child to Church are plainly and unmistakably an injustice and an abuse of discretion.

The district court's analysis of the best interest factors articulated in 19

M.R.S. §1653(3) further demonstrates blatant religious hostility towards Bickford's religious convictions and deprives her of First Amendment rights on the basis of that hostility. Particularly relevant to the Court's analysis is the district court's discussion of factors N and S. *See* 19 M.R.S. §1653(3)(N) ("All other factors having a reasonable bearing on the physical and psychological well-being of the child."); 19 M.R.S. §1653(3)(S) ("Whether allocation of some or all parental rights and responsibilities would best support the child's safety and well-being.").

The district court claimed that it was "not taking a position on any religious principle." (App. 131.) Balderdash. The entire compelling interest discussion (and, really the entire order) does exactly that. The district court denigrated Bickford's religious beliefs as "cultic" and psychologically harmful, and then used that characterization to strip Bickford of her fundamental right to direct the religious upbringing of her daughter.

As to Factor N, 19 M.R.S. §1653(3)(N), the district court declared Bickford's sincerely held religious beliefs and her Church's teachings, religious beliefs wholly

consistent with the Bible, are psychologically harmful to Minor Child. (App. 131 ("The messages that have been presented to [Minor Child] suggest that her father is going to burn and suffer for eternity, that he is persecuting her, that he seeks to 'dismantle' her faith (which she has been taught to believe is the only way she will be saved from eternal suffering), and that he is the enemy whose 'tricks' and

‘snares’ must be avoided. This is not psychologically safe construct for [Minor Child].”).)

First, Bickford’s religious beliefs are fully rooted in historical Christianity, in the Bible, and in the religious convictions held by large numbers of Americans and their children. *See, e.g, John* 14:6 (“Jesus said to him, ‘I am the way, and the truth, and the life. No one comes to the Father except through me.”). As to the “tricks” and “snares” comment, Bickford’s pastor did not say Bradeen was the enemy or that he had tricks and snares against Bickford or Minor Child. (App. 123-125.) Rather, the prayer of Bickford’s pastor was once again quoting very recognizable and common verses from the Bible that are read and repeated to children throughout the country every Sunday. *See, e.g., Ephesians* 6:11 (KJV) (“Put on the whole armor of God, that ye may be able to stand against the wiles of the devil.”); *2 Timothy* 2:26 (KJV) (“that they may recover themselves out of the snare of the devil”). Yet it was those Bible verses that the district court used to strip Bickford of her right to take Minor Child to Church.

As to Factor S, 19 M.R.S. §1653(3)(S), the district court’s hostility towards Bickford’s religious beliefs was also manifested. The district court began by finding that Bickford’s “beliefs are so absolute and so fundamentally connected with her

perception of survival" that she cannot be trusted to care for the religious upbringing of her daughter. (App. 131.) That conclusion overrides Bickford's constitutional right to believe in Heaven and the Bible. *See Ballard*, 322 U.S. at 86-87 (the First Amendment protects religious beliefs about "theories of life and of death and of the hereafter," also protects the right to believe the truth of "the gospel from the New Testament," and protects religious convictions arising from "[t]he miracles of the New Testament, the Divinity of Christ, life after death, the power of prayer.")

The district court faulted Bickford for attending a Church that used the term "custody battle" in a prayer. (App. 125.) The district court stated characterizing "the disagreement between [the Parties] as a battle" is harmful to Minor Child. (*Id.*) For one, this is a common term—used countless times by even this Court—to describe proceedings involving child custody. *E.g.*, *State v. Palmer*, 624 A.2d 469, 472 (Me. 1993) (describing "divorce and custody battle"); *Griffin v. Griffin*, 92 A.3d 1144, 1152 (Me. 2014) (using term "custody battle" to describe litigation between parents over care of a child). As such, it is manifestly unjust to find Bickford's religious beliefs as psychologically harmful to a minor child because her pastor's prayer included a term this Court uses frequently to describe identical situations.

The district court also based its findings of psychological harm to Bickford's

daughter on the basis that her participation in religious gatherings cannot be voluntary. (App. 131.) This, too, is a clearly erroneous and manifestly unjust finding that is not grounded in the law. Indeed, even the Supreme Court has recognized a minor's ability to voluntarily exercise religion. *Prince*, 321 U.S. at 165 ("[t]he rights *of children* to exercise their religion, and of parents to give them religious training and to encourage them in the practice of religious belief, as against preponderant sentiment and assertion of state power voicing it, have had recognition here.").

* * *

Simply put, the district court's compelling interest analysis and its analysis writ large concerning Bickford's religious beliefs violates the First Amendment. There is no compelling interest in prohibiting Bickford from attending Church and taking her minor child with her. The district court's decision is a manifest injustice and cannot stand.

II. The District Court's Decision Is Plainly And Unmistakably A Fourteenth Amendment Violation And Thus An Abuse Of Discretion.

The error of the district court's decision under the Fourteenth Amendment mirrors that of the First Amendment. It is axiomatic that a parent has the fundamental right to direct the upbringing and education of their child, including in matters of religion. Indeed, parents are vested with the care, custody, and control of their children. *See, e.g.*, *Troxel*, 530 U.S. at 65. *Yoder*, 406 U.S. at 213-14; *Pierce*,

U.S. at 534-35; *Meyer v. Nebraska*, 262 U.S. 390 (1923). The interest of parents in the care, custody, and control of their children "*is perhaps the oldest of the fundamental liberty interests recognized by this Court*." *Troxel*, 530 U.S. at 65 (emphasis added). "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children." *Yoder*, 406 U.S. at 232. In fact, "it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel*, 530 U.S. at 66.

The district court's deprivation of Bickford's Fourteenth Amendment parental right fails for the same reasons its decision fails under the First Amendment. **III. The Trial Court Erred In Its Allocation Of Medical Decision Making.**

First, because the district court's entire decision was infused with anti religious sentiments, including the discussion of Bickford's religious beliefs about certain medical care (App. 122-1423), its decision on medical decision making fails for the same reason as the religious decision making discussed *supra*.

Second, even if not infused with religious discrimination, it is still manifestly unjust and an abuse of discretion. "[O]ur system long ago rejected any notion that a

child is a mere creature of the state and, on the contrary, has asserted that parents generally have the right, coupled with the high duty … to recognize symptoms of

illness and to seek and follow medical advice." *Parham.*, 442 U.S. at 602. "Simply because the decision of a parent . . . involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state." *Id.* at 603.

The district court concluded that Bickford's medical decision making was done in good faith and that "there is nothing to suggest that Ms. Bickford intends to harm [Minor Child] or is intentionally trying to place her at risk." (App. 149.) ***That should have ended the inquiry.*** "[P]arents have authority to select medical procedures and otherwise decide what is best for their child, and "[n]either state officials nor federal courts are equipped to review such parental decisions." *Parham*, 442 U.S. at 603-04. The district court's decision was in error.

CONCLUSION

For the foregoing reasons, the district court's decision must be reversed.

Dated: April 7, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of April, 2025, I caused a true and correct copy of the foregoing 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.

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