No. 18-13592

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

DREW ADAMS,
a minor, by and through his next friend and mother, Erica Adams Kasper,
Plaintiff - Appellee,

v.

SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA
Defendant - Appellant.

Appeal from the United States District Court for the Northern District of Alabama, Case No. 3:17-cv-00739-TJC-JBT, Hon. Timothy J. Corrigan

BRIEF FOR AMICI CURIAE GLBTQ LEGAL ADVOCATES & DEFENDERS, THE NATIONAL CENTER FOR LESBIAN RIGHTS, THE NATIONAL CENTER FOR TRANSGENDER EQUALITY, THE TRANSGENDER LEGAL DEFENSE & EDUCATION FUND, AND THE NATIONAL LGBTQ TASK FORCE

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NOVEMBER 24, 2021

Adams v. School Board of St. Johns County, Florida
No. 18-13592

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

In compliance with Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3, amici curiae GLBTQ Legal Advocates & Defenders, National Center for Lesbian Rights, National Center for Transgender Equality, Transgender Legal Defense & Education Fund, and National LGBTQ Task Force make the following disclosures:

In addition to those identified in Appellee's Brief pursuant to Eleventh Circuit Rule 26.1-2 through 26.1-3, amici curiae disclose the following trial judges, attorneys, persons, associations of persons, firms, partnerships, and corporations as having an interest in the outcome of this case:

1. GLBTQ Legal Advocates & Defenders – Amicus Curiae

2. National Center for Lesbian Rights – Amicus Curiae

3. National Center for Transgender Equality – Amicus Curiae

4. Transgender Legal Defense & Education Fund – Amicus Curiae

5. National LGBTQ Task Force – Amicus Curiae

GLBTQ Legal Advocates & Defenders, National Center for Lesbian Rights, National Center for Transgender Equality, Transgender Legal Defense & Education Fund, and National LGBTQ Task Force are each non-profit corporations that have

no parent corporations, and no publicly held corporations own 10 percent or more of their respective stock.

Amici will enter this information into the web-based CIP contemporaneous with the filing of this Certificate of Interested Persons and Corporate Disclosure Statement.

Counsel for Amici Curiae Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1.1-26.1.3, undersigned counsel for amici:

Dated: November 24, 2021 /s/ Shannon Minter

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INTEREST OF AMICI CURIAE[1]

Amici are five civil and human rights groups committed to protecting the equal rights of transgender individuals. Amici have a particular interest in protecting the legal rights of transgender youth in schools. Amici submit this brief in support of Plaintiff-Appellee Drew Adams.

Through strategic litigation, public policy advocacy, and education, **GLBTQ Legal Advocates & Defenders** (GLAD) works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. GLAD has litigated widely in both state and federal courts in all areas of the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender individuals, and people living with HIV and AIDS. GLAD has worked on numerous cases on behalf of transgender students seeking equality and inclusion in schools, including ensuring that transgender people receive full and equal access to facilities separated on the basis of sex.

The **National Center for Lesbian Rights** (NCLR) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian,

[1] Counsel for amici obtained consent from counsel of all parties prior to filing this brief. Counsel for amici state that this brief was not authored, in whole or in part, by counsel to a party, and no monetary contribution to the preparation or submission of this brief was made by any person or entity other than amici or their counsel.

gay, bisexual, and transgender people through litigation, public policy advocacy, and public education. Through its Transgender Youth Project, NCLR seeks to promote greater understanding and support for transgender children and their families. NCLR has a particular interest in preventing all forms of sex-based discrimination.

The **National Center for Transgender Equality** (NCTE) is a non-profit organization that advocates to change policies and society to increase understanding and acceptance of transgender people. In Florida and throughout the country, NCTE works to replace disrespect, discrimination, and violence with empathy, opportunity, and justice. NCTE has an interest in the case before the Court because a critical component of our work is the creation of equity, equal opportunity, safety, health, and economic well-being for all people over their entire lifetimes, and the outcome of this case would help the transgender young people who we serve to avoid some risks of discrimination, harassment, and even violence in their schools and educational environments.

Transgender Legal Defense & Education Fund (TLDEF) is a non-profit organization that advocates on behalf of transgender and non-binary people across the United States. TLDEF is committed to ensuring that law and policy permit full, lived equality for the transgender and non-binary community. TLDEF seeks to coordinate with other civil rights organizations to address key issues affecting transgender people in the areas of employment, healthcare, education, government,

and public accommodations, and to ensure that civil rights protections are applied to their fullest extent on behalf of transgender and non-binary people.

The **National LGBTQ Task Force** (the Task Force) advances full freedom, justice and equality for lesbian, gay, bisexual, transgender and queer (LGBTQ) people. The Task Force is building a future where everyone is free to be themselves in every aspect of their lives. Today, despite all the progress made towards ending discrimination, millions of LGBTQ people face barriers in every aspect of their lives: in schools, employment, housing, healthcare, retirement, and basic human rights. The Task Force strives to remove these barriers.

INTRODUCTION

The *en banc* court posed two questions for the parties:

Does the School District's policy of assigning bathrooms based on sex violate Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1681 et seq.?

Does the School District's policy of assigning bathrooms based on sex violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution?

Amici are uncertain as to the intention of the court's questions—is it to ask whether the School Board can have *any policy* that assigns bathrooms based on sex without violating the Equal Protection Clause and Title IX? Or whether the school district's specific policy in this case as to how to assign students to separate bathrooms violates those provisions?

Amici submit that the former question is not before the court and need not—and should not—be addressed. Put another way, the plaintiff here is a boy who is also transgender who wishes to use the boys' restroom. He does not challenge the practice of providing separate facilities for boys and girls, nor do his legal claims turn on resolving whether that practice is lawful.

Rather, it is the latter question which addresses the facts and claims actually presented by this case that is now before the court. Specifically, may a school district that has a policy requiring boys and girls to use separate restrooms exclude a transgender boy like the plaintiff in this case from the boys' restroom because he is transgender?

Under *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), the answer to that question must be "no." Just as a school district would violate Title IX if it excluded a gay boy from the boys' restroom because of his sexual orientation, the school district violated Title IX by excluding the plaintiff from the boys' restroom because of his transgender status. And because undisputed facts rebut any privacy-based justification for the policy, the defendant's policy violates the Equal Protection Clause as well.

ARGUMENT

I. The Court Should Address the School District's Actual Policy Assigning Restrooms Based on Sex, Not the Broader Question of Whether Any Policy that Provides Separate Restrooms for Boys and Girls Is Permissible Under Title IX or the Equal Protection Clause.

This Court should not reach to decide whether sex-separated restrooms are lawful under Title IX or the Equal Protection Clause when no party in this case disputes that they are. Because no party is asserting that claim, any decision on that issue would be an advisory opinion reached in the absence of an adversary clash or full airing of the multifaceted interests involved. Any such decision would also be a marked departure from the restraint demonstrated by other federal appellate courts resolving similar cases, which have been careful to limit their decisions to the facts and issue concretely presented. This Court should not be the first to decide an issue of such great importance in a case that does not present it.

A. This Court Should Base Its Decision on the Facts and Claims Presented by this Case

Given the sensitive and potentially controversial nature of issues relating to transgender students, it is important that judicial decisions about the rights of such students adhere to the facts of particular cases and reach only those legal questions that are concretely presented. Doing so is required, as a matter of law, to ensure that courts do not violate the prohibition of advisory opinions in Article III of the United State Constitution. As the Supreme Court has explained, courts must not express

advance "judgment upon issues which remain unfocused because they are not pressed before the Court with that clear concreteness provided when a question emerges precisely framed and necessary for decision from a clash of adversary argument exploring every aspect of a multifaced situation embracing conflicting and demanding interests . . . ." *United States v. Fruehauf*, 365 U.S. 146, 157 (1961). *See also In re Wild*, 994 F.3d 1244, 1269 (11th Cir. 2021) (Pryor, C.J., concurring) ("[B]y urging us to decide an issue that does not affect the outcome of this mandamus petition, our dissenting colleagues have forgotten that we do not issue advisory opinions.").

Across the country, courts hearing cases involving transgender students have adhered to these principles by limiting their holdings to the facts and claims presented in the case. This Court should do so as well.

For example, in *Whitaker ex rel. Whitaker v. Kenosha Unified School District No. 1 Bd. of Education*, Ash Whitaker, a transgender boy, challenged a policy excluding him from the boys' restroom under Title IX and the Equal Protection Clause. 858 F.3d 1034, 1038-39 (7th Cir. 2017). The Seventh Circuit held that it must base its analysis on "the facts of the case," not on "abstract" questions. *Id*. at 1052. In particular, the facts showed that Whitaker is a transgender boy who had "publicly transition[ed]" in eighth grade, been diagnosed with gender dysphoria, received hormone therapy, and legally changed his name to reflect his male identity.

Id. at 1040. The facts also showed that Whitaker was treated as a boy in all other respects at school. "At an orchestra performance in January 2015, for example, he wore a tuxedo like the rest of the boys in the group. His orchestra teacher, classmates, and the audience accepted this without incident." *Id*. The only problem for Whitaker was the school's refusal to permit him to use the boys' restroom, which singled him out and drew unwelcome "attention to his transition and status as a transgender student." *Id*.

Based on those facts, the court held that the question presented was whether a school could exclude a transgender boy like Whitaker from the boys' restroom based on his transgender status. *Id*. at 1049 (stating that Whitaker "has alleged that the School District has denied him access to the boys' restroom because he is transgender"). In contrast, the school district sought to frame the issue much more broadly, claiming that "implementing an inclusive policy will result in the demise of gender-segregated facilities in schools." *Id*. at 1055. But as the court noted, the school district could not point to any facts to support that abstract concern. Rather, the only evidence before the court was that "allowing transgender students to use facilities that align with their gender identity has actually reinforced the concept of separate facilities for boys and girls." *Id*.

Similarly, in *Grimm v. Gloucester County School Board*, 972 F.3d 586, 593 (4th Cir. 2020), *as amended* (Aug. 28, 2020), *reh'g en banc denied*, 976 F. 3d 399

(4th Cir. 2020), *cert. denied*, No. 20-1163 (June 28, 2021), a transgender boy challenged a school policy barring him from the boys' restrooms under Title IX and the Equal Protection Clause. Like the panel in *Whitaker*, the court stressed the importance of "developing a fact-based understanding of what it means to be transgender" and of the circumstances of the case. *Id*. at 594. Based on the district court's findings, the court noted that "at the end of his freshman year, Grimm changed his first name to Gavin and expressed his male identity in all aspects of his life" and "entered his sophomore year living fully as a boy." *Id*. at 593. Subsequently, "he underwent chest reconstruction surgery, received a state-court order stating that he is male, and amended his birth certificate to accurately reflect his gender." *Id*. at 594.

Based on these facts, the court framed the specific legal issue presented carefully: "Grimm does not challenge sex-separated restrooms; he challenges the Board's discriminatory exclusion of himself from the sex-separated restroom matching his gender identity." *Id*. at 618.

In both *Whitaker* and *Grimm*, the courts properly resisted the invitation to address hypothetical situations or abstract concerns far removed from the actual circumstances of these cases. For example, in each case, the defendants sought to characterize the issue as whether a student can simply "choose" which restroom to use. *See Whitaker*, 858 F.3d at 1050 (noting school district's assertion "that Ash

may not 'unilaterally declare' his gender"); *Grimm* 972 F.3d at 610 (noting school board's description of Grimm's identity as a choice). But as both courts found, that hypothetical concern had no footing in the facts of these cases. In *Whitaker*, the court explained: "This is not a case where a student has merely announced that he is a different gender. Rather, Ash has a medically diagnosed and documented condition. Since his diagnosis, he has consistently lived in accordance with his gender identity." 858 F.3d at 1050. Similarly, in *Grimm*, the court explained that the school board's framing of Grimm's identity as "a choice" disregarded "Grimm's medically confirmed, persistent and consistent gender identity." 972 F.3d at 610.

Similarly, defendants and some dissenting judges in these cases have raised concerns that permitting transgender students to use restrooms consistent with their identities as transgender boys or transgender girls will lead to "the demise" of sex-separated restrooms. *See Whitaker*, 858 F.3d at 1055; *Grimm*, 972 F.3d at 628 (Niemeyer, J., dissenting). But there simply is no legitimate *legal* reason to assume that the mere existence of boys and girls who are transgender casts doubt on schools' ability to maintain separate restrooms based on sex. Nor is there any practical reason to do so. If anything, as the Seventh Circuit recognized in *Whittaker*, the opposite is true. *See also Grimm*, 972 F.3d at 618 n.17 ("The . . . feared loss of sex-separated restrooms has not been borne out in any of the many school districts that allow transgender students to use the sex-separated restroom matching their gender

identity."). There is nothing inherent in being a transgender boy who seeks to use the boys' restroom or a transgender girl who seeks to use the girls' restroom that poses such a challenge. It would be unwarranted, and improper as a matter of law, for this Court to impute such a challenge to a plaintiff who expressly disavows it.

B. The District Court's Determination that Adams Is a Transgender Boy Is Binding Here.

The court below found that Drew Adams is a transgender boy. *Adams v. School Board*, 318 F. Supp. 3d 1293, 1326 (M.D. Fla. 2018) ("The evidence has established that Drew Adams is a transgender boy."). Like the plaintiffs in *Whitaker* and *Grimm*, the plaintiff here "has undergone social, medical, and legal transitions to present himself as a boy," including hormone therapy and gender-reassignment surgery. *Id*. In addition, "the state of Florida has provided him with a birth certificate and driver's license which state he is a male; and when out in public, Adams uses the men's restroom." *Id*. Also like the plaintiffs in *Whitaker* and *Grimm*, Adams's classmates and teachers interact with him as a male in all other respects at school. *Id.* And like Whitaker and Grimm, the relief Adams seeks is to be permitted to use the boys' restroom rather than being singled out for being transgender. *Id*. at 1309.

The Defendant has not challenged those findings, and they are binding here. *See Cumulus Media, Inc. v. Clear Channel Commc'ns, Inc*., 304 F.3d 1167, 1171 (11th Cir. 2002) ("As is usually the case, the trial court is in a far better position than

this Court to evaluate that evidence, and we will not disturb its factual findings unless they are clearly erroneous."). It is also undisputed that the defendant's current restroom policy was developed specifically to address transgender students and intentionally defines who may use the boys' restroom in a way that excludes Adams because he is a transgender boy. *Adams*, 318 F. Supp. 3d at 1304.

Considering these established facts, this Court should not stretch to reach issues not presented by this case. Adams is not challenging sex-separated restrooms, but "simply seeking access to the boys' restroom as a transgender boy." *Adams v. School Board*, 968 F.3d 1286, 1308 (11th Cir. 2020). Accordingly, this Court should focus on the specific question presented by these facts: May a school exclude a transgender boy from the boys' restroom, or is such an exclusion impermissible discrimination based on transgender status under Title IX and the Equal Protection Clause? "This case is not about eliminating separate sex bathrooms; it is only about whether to allow a transgender boy to use the boys' bathroom." *Id*. at 1317.

II. The School District's Policy Violates Title IX and the Equal Protection Clause by Excluding Adams from the Boys' Restroom Because of his Transgender Status.

The school district's policy excludes Adams from the boys' restroom because of his transgender status. Under *Bostock,* a policy that excluded a gay boy from the boys' restroom would violate Title IX by expressly discriminating based on sexual orientation, a sex-based trait. The same analysis applies to a policy that excludes a

boy because he is transgender, which is also a sex-based trait. Because the undisputed facts here rebut any privacy-based justification, such a policy violates the Equal Protection Clause as well.

A. Excluding a Transgender Boy from the Boys' Restroom Because He Is Transgender Is No More Permissible Than Excluding a Gay Boy from the Boys' Restroom Because He is Gay; Both Constitute Impermissible Sex Discrimination.

In *Bostock*, the Supreme Court held that discrimination because a person is gay or transgender is prohibited sex discrimination under Title VII. *Bostock*, 140 S. Ct. at 1741. As the Supreme Court noted, "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." *Id*. The same analysis applies under Title IX, which also prohibits discrimination because of sex. *See Franklin v. Gwinnett Cnty. Pub. Schs*., 503 U.S. 60, 75 (1992) (looking to its prior interpretation of discrimination under Title VII to interpret Title IX in sexual harassment case); *Fox v. Gaines*, 4 F.4th 1293, 1296 & n.7 (11th Cir. 2021) (looking to Title VII case law to interpret the Fair Housing Act in sexual harassment case because both statutes prohibit discrimination "'because of . . . sex'" (citation omitted)).

Today, there is little doubt—especially after the Supreme Court's holding in *Bostock*—that a policy barring a gay student from using the boys' restroom would constitute unlawful sex discrimination under both Title IX and the Equal Protection Clause. While the possibility that a school district would adopt such a policy may

seem unlikely, the discriminatory belief that gay men should not share restrooms with other men was long used to justify barring gay men from serving in our nation's military. *See*, *e.g.*, Phil Stewart & Ross Colvin, *Military study gives green light to end gay ban*, Reuters (Nov. 30, 2010) (describing study that "opposed separate . . . bathrooms for gay or lesbian troops, a possibility raised in the past by some in the U.S. military").

Such a policy would violate Title IX by singling out a student based on a sex-based characteristic—his sexual orientation—to exclude him from other boys. The harmful impact of such a policy would be clear. It would stigmatize gay students by shining a constant negative spotlight on their difference from other boys and by implying, falsely, that they pose a threat to the safety or privacy of other boys.

A similar legal analysis applies to the school district's policy here, which likewise singles out the plaintiff based on a sex-based characteristic—his transgender status—to separate him from other boys. The harmful impact of this policy is also clear. It stigmatizes him by shining a constant spotlight on his difference from other boys and by implying, falsely, that he poses a threat to their safety or privacy. *Adams*, 318 F. Supp. 3d at 1316.

These two characteristics—sexual orientation and transgender status—are both equally sex-based, and both constitute an impermissible basis for treating a particular boy differently from other boys, whether in the context of restrooms or

any other school-based setting. Title IX regulations permit schools to provide separate restrooms for boys and girls, but, once a school has done so, it may not employ discriminatory criteria to exclude boys who are gay or transgender from the boys' restroom any more than it could discriminate on those bases in other school settings, such as requiring gay or transgender boys to sit in a special section of class or adhere to a different dress code than other students.

B. The School's Asserted Interests Do Not Justify the Discrimination Here.

As set forth above, the school's policy singles out the plaintiff for exclusion from the boys' restroom because of his transgender status. A wall of precedent establishes that government policy that classifies based on an individual's transgender status is subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment. *See, e.g.*, *Glenn v. Brumby*, 663 F.3d 1312, 1317-19 (11th Cir. 2011); *Grimm*, 972 F.3d at 608-09; *Karnoski v. Trump*, 926 F.3d 1180, 1200-01 (9th Cir. 2019); *Whitaker*, 858 F.3d at 1051-52; *Bos. All. Of Gay, Lesbian, Bisexual & Transgender Youth v. U.S. Dep't of Health and Human Servs.*, No. 20-11297-PBS, 2021 U.S. Dist. LEXIS 155622, at *43 (D. Mass. Aug. 18, 2021); *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267, 288 (W.D. Pa. 2017); *Adkins v. City of New York*, 143 F. Supp. 3d 134, 139 (S.D.N.Y. 2015); *Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep't of Educ.*, 208 F. Supp. 3d 850, 873 (S.D. Ohio 2016); *M.A.B. v. Bd. of Educ. of Talbot Cnty.*, 286 F. Supp. 3d

704, 718-19 (D. Md. 2018); *Norsworthy v. Beard*, 87 F. Supp. 3d 1104, 1119 (N.D. Cal. 2015); *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1145 (D. Idaho 2018); *Flack v. Wis. Dep't of Health Servs*., 328 F. Supp. 3d 931, 951-53 (W.D. Wis. 2018). At a minimum, the burden is on the school to prove that its justification for any sex-based classification is "exceedingly persuasive." *United States v. Virginia*, 518 U.S. 515, 524, 532-33 (1996) (quoting *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 724 (1982)). The school fails to meet its burden if it cannot show that a sex-based classification "serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Id*. (quotation marks and citation omitted). It cannot meet that burden here.

Though it advanced the interests of both safety and privacy below as justifications for excluding a transgender boy from the boys' restroom, the school on appeal offers only the justification of privacy in defense of its policy. Because the policy results in the exclusion of a boy from the boys' restroom, the contours of a generic justification of privacy are not obvious. Chief Judge Pryor, in dissent, offered two ways to understand the school's more vaguely framed privacy justification. First, he asserted that students have a privacy interest in using the restroom away from students of a different sex and, second, he stated that the school has an interest in protecting students from exposing their unclothed bodies to

students of a different sex. *Adams v. School Board*, 3 F.4th 1299, 1328 (11th Cir. 2011) (Pryor, C.J., dissenting).

Because the Plaintiff in this case is a boy, the first of the two privacy justifications—ensuring students can use a restroom away from student of a different sex—is not implicated by the case. To the extent it has any relevance, it is only to the broader question of whether a school can have *any policy* that assigns bathrooms based on sex, the question Amici urge this Court not to tackle.

Turning to the second articulation of a privacy interest, applying the facts of this case to these justifications demonstrates why a policy that excludes a transgender boy from the boys' restroom fails to meet even the lowest standard of scrutiny, much less the heightened examination required here. The undisputed record shows that all of the restrooms at the school "contain separate stalls with doors that close and lock." *Id*. at 1313 (citing D. Ct. Dkt. 157-17 at 12). Any student who desires privacy while using a restroom may step into a private space, close the door behind him, and be completely free of anyone else's gaze while using the facility. As the record shows, when the plaintiff needs to use the restroom, he uses a stall, washes his hands, and leaves. *Id.* (citing DE-137-26); 318 F. Supp. 3d at 1300. The same is true for anyone else who uses the boys' restroom. To ensure complete privacy, all another boy using the boys' restroom needs to do is step into a stall and lock the door behind him. Problem solved. Permitting a transgender boy

like the plaintiff to use the boys' restroom does not risk exposure of his unclothed body to anyone, much less to anyone of a different sex. *Cf. Grimm*, 972 F.3d at 614 ("Put another way, the record demonstrates that bodily privacy of cisgender boys using the boys restrooms did not increase when Grimm was banned from those restrooms.").

Because the school can articulate no important interest substantially related to exclude a transgender boy from the boys' restroom, the policy of excluding Plaintiff from the boys' restroom because he is a transgender boy fails equal protection scrutiny.

CONCLUSION

For the reasons above, as well as for the reasons set forth in the Plaintiff-Appellee's brief, this Court should affirm the judgment of the district court.

Dated: November 24, 2021

Respectfully submitted,

/s/ Shannon Minter

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 29(a)(5) because it contains 4,116 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), as determined by the word-counting feature of Microsoft Word 2016.

This brief complies with the typeface requirement of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface, including serifs, using Microsoft Word 2016 in Times New Roman 14-point font.

Dated: November 24, 2021 /s/ Shannon Minter

CERTIFICATE OF SERVICE

I certify that I 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 24, 2021.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: November 24, 2021 /s/ Shannon Minter