

IN THE
SUPREME COURT OF GEORGIA

CASE NO. S25A0300

STATE OF GEORGIA,

Defendant-Appellant,

v.

SISTERSONG WOMEN OF COLOR REPRODUCTIVE JUSTICE COLLECTIVE, *ET AL.*,

Plaintiffs-Appellees.

On Appeal from the Superior Court of Fulton County, Georgia
Civil Action No. 2022CV367796

**BRIEF OF INDIVIDUALS IMPACTED BY GEORGIA BAN AS
AMICI CURIAE IN SUPPORT OF PLAINTIFFS-APPELLEES**

EMERSON W. GIRARDEAU III
WILLKIE FARR &
GALLAGHER LLP
600 Travis Street
Houston, TX 77002
(713) 510-1755
egirardeau@willkie.com

Counsel for Amici Curiae

January 27, 2025

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
TABLE OF CITATIONS	iii
INTEREST OF AMICI CURIAE	1
INTRODUCTION	1
STORIES	3
1. Avery Davis Bell	3
2. Nicole and Alycia Coles	8
3. Turiya Tomlin-Randall	13
4. Amanda Gibson	16
5. Katherine Stratton	21
CONCLUSION	26
CERTIFICATE OF COMPLIANCE	27
CERTIFICATE OF SERVICE	28

TABLE OF CITATIONS

Statutes

Georgia Code § 16-12-141 (2023) 1

Other Authorities

Kavitha Surana, *Afraid to Seek Care Amid Georgia’s Abortion Ban, She Stayed at Home and Died*, PROPUBLICA (Sept. 18, 2024), <https://www.propublica.org/article/candi-miller-abortion-ban-death-georgia%20>1, 2, 15

Kavitha Surana, *Abortion Bans Have Delayed Emergency Medical Care. In Georgia, Experts Say This Mother’s Death Was Preventable*, PROPUBLICA (Sept. 16, 2024), <https://www.propublica.org/article/georgia-abortion-ban-amber-thurman-death>.....2

INTEREST OF AMICI CURIAE

Amici curiae are people impacted by Georgia’s abortion ban: Amanda Gibson, Avery Davis Bell, Katherine Stratton, Nicole and Alycia Coles, and Turiya Tomlin-Randall. *Amici* are not alone—they are only a small sample of the many families who have been devastated by Georgia’s abortion ban, some whose stories have been reported, but many more who have suffered privately, out of the public eye.¹ They submit this brief to impress upon this Court the dire consequences of Georgia’s abortion ban for all Georgians—including those who face severe medical complications and those who want to have children safely—unless the Superior Court’s order is affirmed.

INTRODUCTION

Under Georgia law, abortions are prohibited when a fetus has a “detectable human heartbeat,” which can generally be detected by ultrasound beginning at around six weeks of pregnancy, as dated from the patient’s last menstrual period. GA Code § 16-12-141 (2023). Georgia law includes narrow exceptions where a physician determines, in reasonable medical judgment, “that a medical emergency exists,” or “that the pregnancy is medically futile.” GA Code § 16-12-141(b).

But the reality is clear—these exceptions are not working. A state-convened Maternal Mortality Review Committee has already linked the deaths of two Georgia mothers—including Candi Miller, sister of *amicus*

¹ See, e.g., Kavitha Surana, *Afraid to Seek Care Amid Georgia’s Abortion Ban, She Stayed at Home and Died*, PROPUBLICA (Sept. 18, 2024), <https://www.propublica.org/article/candi-miller-abortion-ban-death-georgia>.

curiae Turiya Tomlin-Randall—to Georgia’s abortion ban.² The life-and-death experiences of the Georgia families documented in this *amicus* brief demonstrate that Georgia’s abortion ban is putting lives in danger. Doctors are hamstrung by legal uncertainty in the face of rapidly changing medical conditions during pregnancy. The ban deprives doctors of the clarity and discretion needed to make urgent determinations to save people from not only physical harm and death, but also lifelong trauma from pregnancy complications. It is clear that Georgia’s ban forces people to wait to get sicker before their doctors can intervene.

As this brief demonstrates, Georgia’s abortion ban imperils people who have families to care for, the people who love them, and their hopes and dreams for full, multifaceted lives. Throughout this brief, we include direct quotations from *amici* recounting how Georgia’s abortion ban has affected them. Although *amici* represent different backgrounds, political persuasions, religious affiliations, and views on abortion, they unanimously agree on two things: Georgia’s abortion ban endangers people’s lives and health and doctors are not to blame for such harms. *Amici* implore this Court to sit squarely with reality: Georgia’s abortion ban is endangering lives and devastating families.

² See *id.*; see also Kavitha Surana, *Abortion Bans Have Delayed Emergency Medical Care. In Georgia, Experts Say This Mother’s Death Was Preventable*, PROPUBLICA (Sept. 16, 2024), <https://www.propublica.org/article/georgia-abortion-ban-amber-thurman-death> (reporting on the death of Amber Nicole Thurman).

STORIES

1. Avery Davis Bell

Avery Davis Bell and her husband, Julian, met as undergraduates at Swarthmore College. After earning a doctorate from Harvard Medical School, Avery became a research geneticist. Julian is an MIT-trained mechanical engineer. Knowing that one day they wanted to have children and raise them near their extended family, they decided to return to Avery's hometown of Atlanta in 2020.

The couple welcomed their first child, a son, in the summer of 2021. Avery says that parenting is one of the hardest things that she and Julian have done together, but also the “best, most meaningful and joyful thing.” Just before their son turned three, they decided to try for another child. Soon enough, after tracking Avery's fertility cycle, a pregnancy test showed they had been successful, with a due date of late March 2025.

Avery and Julian quickly realized that this pregnancy would not be like their first. Around seven weeks gestation, ultrasounds showed a pooling of blood between the uterine wall and the sac that surrounds the fetus—a condition known as a subchorionic hemorrhage. But as Avery's pregnancy reached its second trimester and genetic screening results were normal, Avery and Julian felt comfortable sharing news of the pregnancy with their family and friends, and—most importantly—their son, who delighted in the idea of being a big brother. Every time he saw Avery, the three-year-old would say: “Hi mama! Hi baby!”

Around sixteen weeks gestation, Avery was bleeding so often and heavily that her falling iron, hemoglobin, and red blood cell levels were endangering her own health and pregnancy. She was hospitalized several times. During her second admission, Avery's doctors explained their growing concern that if Avery's anemia progressed into a hemolytic crisis, or if the fetus stopped developing, her pregnancy would need to be terminated to save her own life. Worse, her fetus would still be too underdeveloped to survive outside of the womb. Her doctors explained that the safest option—if a termination would be needed to preserve her own health—was to undergo a dilation and evacuation (“D&E”) abortion, a procedure that would not worsen her already weakened condition.

But the doctors made clear they could not yet act to save Avery's life because she was not yet “sick enough” to qualify for an exception to Georgia's abortion ban. So, even as she got sicker, Avery and her doctors could only hope for the best while closely monitoring her health.

Avery was sent home and confined to bedrest. Still, she clung to the hope that her condition would stabilize and her pregnancy could be saved.

Then, a week later, still home, Avery passed a blood clot the size of a dinner plate, which was “terrifying and different from the earlier bleeding.” She went to the hospital, where she learned she had become severely anemic and that her water had broken, a development that foreclosed any chance her fetus could survive and put Avery at immediate and significant risk of infection.

Her doctors explained the consequences with certainty—her pregnancy needed to be terminated or else Avery could die. That's when “Julian just

broke down, and I wanted to, too,” she said, “but instead I had to go into crisis management mode.”

Even though the pregnancy was no longer viable, Georgia’s abortion laws prevented her doctors from moving immediately to provide Avery with the life-preserving care she needed.

Because Avery’s fetus still showed signs of cardiac activity, fear of liability under Georgia’s abortion ban tied Avery’s doctors’ hands. Before taking any steps to prepare Avery for the procedure she needed, Avery’s doctors concluded that they were required to first give her the state-scripted disclosures mandated by Georgia law and obtain her written certification that she had received such disclosures at least 24 hours prior to her abortion.

So, Avery and Julian waited. They put grief for the loss of their expected baby on hold and tried to focus on when Avery would be able to receive life-saving abortion care.

Avery signed the consent forms saying she reviewed the state-mandated disclosures, which she already knew were rife with scientific inaccuracies, including about fetal pain. She recalls this requirement as “cruel” and “emotional torture” that “added insult to injury.”

Avery’s doctors kept asking, “Do you feel worse?” She understood this query as a substitute for their actual but unasked questions: “Are you dying faster? Can you help us prove you’re dying fast enough to require emergency care?” Finally, her hemoglobin fell so low that she was on the verge of requiring a blood transfusion, an indisputable life-or-death emergency.

This terrible news—and its unequivocal nature—may have saved Avery’s life. About 20 hours after her water broke, doctors were finally able to prepare Avery for an abortion by administering the medication misoprostol to dilate her cervix. “This having to wait while my expected baby was dying inside me and I was at extreme risk and my whole community was on tenterhooks to see if I would be OK was the most traumatic experience of my life.” When Avery’s doctors finally performed the abortion, the risk of hemolytic crisis was so significant that they had to administer a blood transfusion to ensure she had sufficient blood supply to combat the anemia and safely undergo the procedure.

Avery knows how very precarious her situation was. “No human person in the world should have to go through that,” she says. “It’s unconscionable on the part of the State.” She realizes that her life could easily have ended while her doctors’ hands were tied by Georgia’s abortion ban. Avery believes that requiring doctors to “decide how far down the path you have to go towards life-threatening” and “jump through hoops based on where you are in the pregnancy,” creates “huge consequences, even for people like me, who have fantastic doctors that I screened, and even though I understood everything that was going on with me. We [had] made a plan for if I needed a[n abortion] . . . and it was still completely awful and very scary.”

As Avery heals from the emotional and physical trauma of her experience, she knows that her doctors did everything they could. But Georgia’s abortion ban undermined her healthcare choices and her doctors’ ability to exercise their medical expertise in managing her care and injected significant uncertainty—not to mention life-threatening risks—“every step of the way.”

Avery and Julian have sought to commemorate their expected baby in various ways: Avery got a tattoo of the moon that they saw the night they went to the hospital and of the owl that visited them after. They have compiled a scrapbook with their baby's footprints and planted a maple tree, a gift from colleagues. They have talked about the loss with their three-year-old son in the "language and emotions" that he can understand. Avery also decided to honor her loss by speaking out publicly about what she went through. "This was my baby in my heart, my expected baby, and all our hopes and dreams," but "[t]here was nothing anyone could do to make that baby live." She says how "disrespectful and demeaning" it was for Georgia to put her through the indignity that she faced and the fear that she would not return home to mother her son. She knows that, if Georgia's abortion ban stands, what she went through "can happen to anyone in any circumstance."

It is not lost upon Avery and Julian that March 2025, when this case may be heard, is also when their expected baby was due. She hopes the Court will deliver a decision that ensures no other Georgian has to suffer unnecessarily, the way she and her family did. "Trying to categorize when the life of the mother is enough 'at risk' ignores that everyone's situation is unique and only puts everyone in danger." To Avery, "it needs to be safe for everyone in Georgia to have children. It isn't now." She is resolute that Georgia's abortion ban "will not take her family planning from" her and hopes to have another child.

Reflecting on Georgia's abortion ban, Avery says, "you're risking killing children's moms . . . I don't understand it, but let's say that it's coming from a good place of wanting to protect life. It's doing the opposite. My baby was

never going to survive. That's devastating to me. It's also just the truth There's no reason for me not to survive too."

2. Nicole and Alycia Coles

Nicole and Alycia met through their shared passion for women's college basketball. Soon, they were inseparable best friends, and, over time, they fell in love and married. After moving to Atlanta for their respective careers, they decided it was also time to start building a team of their own, a family.

As a same-sex couple, they understood the obstacles involved, but they never imagined how difficult it might be or how long it might take. Both were excited to be biological mothers, and together, they decided Nicole would go first because she was a few years older. What followed were four attempts at intrauterine insemination procedures and one in vitro fertilization ("IVF") transfer. But nothing took.

Finally, after their second embryo transfer, Nicole was pregnant. Because of the earlier challenges, they decided to wait to share their news with friends and family. But when Nicole reached her second trimester and regular check-ups continued to show the pregnancy was progressing normally, they started telling their loved ones. At sixteen weeks gestation, doctors confirmed "the baby had a strong heartbeat and everything looked awesome," said Nicole.

But just four days later, everything changed.

Late that night, Nicole noticed a trickle of clear fluid running down her leg, followed soon by a "whoosh" and "sudden gush" of liquid. She knew something was wrong. After contacting the on-call doctor, Nicole and Alycia

learned that it was likely a premature rupture of the amniotic sac, “basically a pregnancy loss.”

Scared and unsettled, the couple decided to go to the emergency room so Nicole could be examined. There, she was triaged as “non-emergent,” and they waited hours overnight to be seen. The physician’s assistant who saw Nicole said that the ultrasound looked fine, but she might have a yeast infection. An obstetrician was consulted once the radiologist’s report came back, over twelve hours later, confirming their fear that Nicole had suffered preterm premature rupture of membranes. The obstetrician, who expressed astonishment that staff had not called her sooner, provided Nicole and Alycia with the information—and compassion—they needed, explaining that the situation warranted admission to the hospital and a meeting with a maternal fetal medicine specialist (“MFM”) that morning.

The MFM gave them news no expecting parent wants to hear: Nicole’s amniotic fluid level was too low, and there was almost no chance of their fetus surviving inside or outside the womb. They were then told that it might take up to two weeks to complete the miscarriage, during which time Nicole could contract life-threatening sepsis. The MFM told them that the medically recommended treatment plan would previously have been an immediate abortion, but the fetus still had a heartbeat, and Nicole was still healthy, so, under Georgia’s abortion ban, the doctors legally could not “do anything for [Nicole]” until Nicole’s life was threatened. After being monitored for 48 hours, Nicole and Alycia were discharged with the instruction to return if Nicole developed any of the warning signs of sepsis.

Nicole and Alycia went home, devastated and afraid for Nicole's well-being. In addition to grappling with the news that their baby would not survive, the doctors were "basically telling [Nicole] they were waiting for her to get sick."

Nothing seemed right to them, so they kept searching for answers and medical attention for Nicole. They went back to the hospital. A doctor told them that they could go out of state for immediate abortion care but warned that Nicole "could get sick at any time, and . . . when it happens, it could happen really quickly." Alycia didn't know how she could keep Nicole safe, wondering "Do we drive? That's several hours in the car, and we won't know where the nearest hospital is. Or do I put her on the plane and risk a medical emergency in the air?"

Under these circumstances, they could only go home and wait. "It was really hard. I just had to sit there," Nicole recalls, "and wait for either [the fetus's] heartbeat to stop, or for me to get sick. There's not a good scenario there."

Every three hours, for days, Alycia checked Nicole's blood pressure and temperature. The first sign of trouble was when Alycia found Nicole shivering, a symptom of sepsis. When she discovered that Nicole also had very low blood pressure, another symptom, she rushed her wife to the hospital's labor and delivery unit. Alycia spotted a note with Nicole's name stuck to a computer in the admitting office—the hospital staff knew that they would be back.

Nicole was light-headed and running a fever—her health seemed to deteriorate by the minute. Lab results confirmed she was septic, a medical

condition so clearly an emergency that even under Georgia's abortion ban, her doctors could act. Alycia could only watch in fear as Nicole's doctors administered misoprostol to induce labor. She remembers that one of the medical personnel treating Nicole remarked that it looked as though Nicole was "circling the drain." Nicole and Alycia made the decision to terminate their pregnancy by going through an induction of labor so that they could see and hold their daughter, whom they named Parker.

But Nicole was "still not out of the woods" because the doctors had to wait until after Parker was delivered, stillborn, before they would be able to administer antibiotics to treat Nicole's raging infection. She remained in the hospital for two days as they waited for the infection to clear and for her condition to stabilize. During that time, Nicole and Alycia took turns holding Parker in their arms, wrapped in a homemade blanket.

The couple tried to process their loss, but it felt cruel and surreal being surrounded by the cries of other babies being born on the same floor. Nicole remembers, "I was really sad. I've never had a loss that close to me before. I also felt very guilty, like it was my fault. I felt that way for a while; I still think that sometimes, even though I knew there's nothing I did wrong or could have done differently in the moment to change it . . . There was a lot of frustration, too."

The lack of control and information and support they felt during their ordeal still haunts Nicole and Alycia. "It was the most difficult situation I have been through in my life," Nicole explains. "To feel powerless and not have the opportunity to manage it how we know best made it twenty times

harder. We very much loved our daughter. I want that to be clear. We very much loved her.”

Nicole and Alycia know that Georgia’s abortion ban forced them to gamble with Nicole’s life, and the “situation shouldn’t have gotten as serious as it did.” Alycia says, “the decision was made for us. We didn’t have the option.” Their fear for Nicole’s life was compounded by the fact that Georgia’s maternal mortality rate, which is already higher than the nation’s average, is also disproportionately higher for Black women such as themselves.

To this day, Nicole and Alycia continue to work with therapists to process their loss and feelings of grief, anger, and anxiety. Nicole’s anxiety was especially acute when she and Alycia resumed their family planning with a third embryo transfer. Nicole couldn’t help but wonder, “What else could go wrong?” Looking back on “the treatment [they] received” and “the options that were taken away,” Alycia feels “very upset” and “a bit resentful . . . how dare they make me risk losing my wife.”

About a year ago, Nicole and Alycia became the parents of a healthy baby whom Nicole carried and delivered. They are considering expanding their family again, this time with Alycia carrying their child.

But their conversations about the future reflect the hole in their hearts for Parker that will always be there, as well as the unnecessary pain and suffering caused by Georgia’s abortion ban, written not by doctors, but by politicians.

They do not want to leave their home, their lives, and their community in Atlanta, but, as Nicole says, “if living in another state would have

prevented us from going through this, then . . . that would have been my preference.” They are sharing their lived experience and heartbreak so that people understand how Georgia’s abortion ban “impacts real people who are trying to build families.” Alycia especially wants to make clear that abortion is “healthcare at the end of the day. To deny somebody that is inhumane. And unacceptable.”

3. Turiya Tomlin-Randall

Candi Miller was a caring and devoted mother, wife and sister. She worked as a hairdresser and nail technician, but what she loved most was spending time at home with her three children—a teenaged son and two younger daughters—and her husband, Alex.

Although standing just 4-foot-11, Candi “was a giant in her own right, a real spitfire,” explains her sister Turiya Tomlin-Randall. “She loved her kids fiercely. She was a wonderful mother; she always did the best she could for them.”

Candi had moved to Atlanta in her early twenties and soon after met and married Alex. They had a son, and then, six years later, Candi had a daughter.

After her daughter was born, Candi was diagnosed with lupus, a disease that caused excruciating joint pain and debilitating exhaustion and required ongoing radiation treatment at a nearby hospital. Doctors explained that the lupus, in combination with Candi’s pre-existing high blood pressure and diabetes, would make any future pregnancy dangerous to her health. That prediction proved all too true when Candi learned she was pregnant

again with her third child. Candi's pain and fatigue became so much worse following the birth of this child. While she loved her three children and "would have had 100 kids if she could," Candi knew her precarious health would not allow her to carry future pregnancies.

Just after Candi's forty-first birthday in November of 2022, Turiya received a call from Candi's son with the most devastating and life-changing news that Turiya had ever received: Candi had passed away. Turiya immediately broke down and cried on the phone. Candi's son told Turiya that he and his father found his mother unresponsive on her bedroom floor. Alex called 911, and they took Candi to the hospital, but she did not survive.

At first, Turiya assumed Candi's death was tied to her lupus. But Candi's son told her that his mom had taken pills that he believed were meant to cause an abortion, mail-ordered online, just a few days before her death. It was Turiya who had to tell her niece that her beloved mother had died. The child wanted to know: "Does that mean I don't have a mommy anymore?"

Turiya was shocked to learn of Candi's fourth pregnancy and believes now that Candi was likely scared and worried about the impact of pregnancy on her already poor health. Thinking back to the weeks before Candi's death, Turiya remembers Candi being excited for the holidays but also concerned about what would happen to her kids if she passed away—which Turiya found odd at the time. Turiya understands now that is why Candi took steps to terminate the pregnancy.

Turiya received Candi's autopsy report six months later, which confirmed that lupus had not caused Candi's death. It said that Candi likely

developed sepsis after failing to completely expel fetal tissue during the medication abortion (a complication that can arise from either abortion or miscarriage). Turiya knows now that Georgia’s abortion ban caused Candi to fear seeking medical care in Georgia, first to terminate her pregnancy and later to obtain follow-up care, that, in a state without an abortion ban, would have been routine. Turiya believes that if Georgia did not criminalize abortion, her “sister would have gotten an abortion in a safe way” and would still be alive today. Indeed, last September, about twenty-two months after Candi’s death, Turiya learned the findings of Georgia’s Maternal Mortality Review Committee, a panel of medical professionals within the Georgia Department of Public Health tasked with reviewing the deaths of pregnant people in the state. After analyzing Candi’s records, the Committee determined her death was caused by lack of access to prompt abortion care in Georgia. In a report, the Committee deemed Candi’s death “preventable.”³

“Georgia families and families in other abortion ban states need to know this information,” says Turiya. “People need to understand the harms these bans cause.” Turiya says her sister always fought for what was right and good, and that is one reason she is contributing to this *amicus* brief. She wants people to know what happened to Candi and the harm to her family, and to be aware of Georgia’s abortion ban. Turiya also wants to remind Georgians that after the Committee’s maternal mortality report found her sister’s death to have been “preventable,” the state disbanded the Committee

³ Kavitha Surana, *Afraid to Seek Care Amid Georgia’s Abortion Ban, She Stayed at Home and Died*, PROPUBLICA (Sept. 18, 2024), <https://www.propublica.org/article/candi-miller-abortion-ban-death-georgia>.

indefinitely, making it unclear whether there will be formal medical reviews of maternal deaths tied to Georgia's abortion ban going forward.

Candi's son thinks about his mom every day. He remembers that, as he was breaking the horrible news to his Aunty Turiya after coming home from the hospital, groceries were delivered to the house—groceries that Candi had ordered for the family before she passed away. He cried when he saw them; even though his mom was gone, she was still taking care of them. He worries that “there are probably a lot more people experiencing” what his mother did, but Georgia's abortion ban forces people “to just deal with it” instead of getting help. “Think about if this happened to one of your family members or someone you know. It could happen to anyone.”

Turiya misses everything about her sister—“her laugh, her sayings, little things,” adding that “we talk about Candi all the time to keep alive her happy memories for all of us.” Candi is now “gone in the flesh, but her spirit is all around.” Turiya wants “the world to know that abortion ban laws” hurt people and believes that “people need to have the choice and make the decision for themselves without having the government tell them to have children,” especially if the pregnancy is risky. “Sometimes it is a matter of life and death for the mother.” For Turiya, it's pretty clear: the law “needs to take care of the living. Who's going to be there to raise the children if the mother's gone?”

4. Amanda Gibson

Amanda was born and raised in Georgia and has spent almost her entire life in the state. Georgia is her home. She and her husband, Brendan, moved to the Atlanta suburbs, excited to start a family together. Starting

their family was challenging, so the couple went through IVF to conceive their first child, a healthy daughter born in 2022.

In 2023, Amanda and Brendan decided to try for another child. On Amanda's 34th birthday, quite unexpectedly, they received a positive pregnancy test, something they considered "a complete miracle." Amanda delighted in her family's surprise when they heard the news of the second pregnancy, a memory she still cherishes. Preparing for the arrival of their second baby girl, Amanda and Brendan moved into a larger home. "We knew exactly what her room was going to be, we told our daughter, and planned her name." Baby Sloane was expected in May 2024.

Early on, all scans showed the pregnancy was progressing normally. But at 13 weeks gestation, Amanda's doctor recommended an additional nuchal translucency scan to determine if the fetus had any genetic issues. The scan revealed tragic news. The fetus's body was severely swollen with fluid and an 11 millimeter cystic hygroma. The doctor said there was just a one percent chance that the fetus would survive, and if born, she would not live long. Amanda and Brendan cried in the doctor's office as they took in this information. Then, the couple faced the additional new reality that this fetal diagnosis also brought with it risks to Amanda's life.

The doctor told Amanda that all she could do at this point was wait and monitor for signs of pre-eclampsia. The doctor explained that Amanda could experience "Mirror Syndrome," a rare condition where a mother develops the same kind of dangerous swelling impacting the fetus. Though devastated, Amanda knew at that moment that she needed to terminate the pregnancy. "I consider myself a Christian and my husband too, but it wasn't even a

question when we found out my baby would die and I may die.” Amanda knew about Georgia’s abortion ban but was shocked when doctors told her that immediate termination was not an option, even in a situation as dire as hers. The doctors provided the couple with information about abortion options, including at out-of-state clinics and an in-state doctor who could possibly perform the procedure. Encouraged that they could potentially stay in Georgia, Amanda and Brendan reached out to the in-state hospital, only to learn that the hospital would only perform the procedure if an ethics committee determined that Amanda’s circumstances were dire enough to qualify.

The couple quickly brought Amanda’s medical records to the hospital, where doctors confirmed that the fetus would not survive after birth. Then they waited for the committee’s decision. Each week, Amanda and Brendan went for scans, unsure whether the fetus may have already passed away. They spent Thanksgiving anxiously researching out-of-state abortion clinics and hoping for a call from the hospital. Amanda was sick with grief. “To know what I wanted to do” but “to have that decision left up to” the ethics committee felt dehumanizing.

As she waited, Amanda’s pregnancy continued to deteriorate. The swelling became severe, and the fetus was rapidly losing amniotic fluid. Instead of enjoying the holidays with their friends and family, the couple worried about traveling to an out-of-state clinic. They soon realized that, even if they could find an out-of-state clinic that could schedule Amanda, utilizing it would not be an option because the costs of travel, hotel stays, childcare, and other expenses were too great. They feared what would happen if Amanda’s health deteriorated or if she experienced a miscarriage

away from home and their young daughter. She talked to Sloane every night, feeling hopeless about the situation but steadfast about the decision. “The limbo was the worst part.” Against everything she wanted for this pregnancy and her family, Amanda found herself hoping that the fetus would die naturally in utero, and be spared from struggling and fighting to live. Amanda felt horrible—both physically from progressing sickness and emotionally from the loss of the miracle baby they had conceived—but knew that the abortion procedure was the only merciful option for her baby, her family, and to protect her own life.

The day after Thanksgiving, Amanda and Brendan received the news that the ethics committee had authorized Amanda’s procedure. Although they felt relief, Amanda was depressed knowing that she was carrying a fetus that would not survive. While the abortion procedure went as planned, the doctors informed Amanda that the fetus had passed away before the abortion had begun. Amanda’s doctor gifted the couple with a pair of Sloane’s handprints, which Amanda cherishes. Hospital paperwork listed Amanda’s condition as “empty womb,” a devastating fact for Amanda to read.

It was Christmastime, and the couple was supposed to be celebrating with their young daughter and a baby on the way. Grateful to have survived for her 18-month-old daughter, Amanda could not help but cry when her toddler mentioned Sloane’s name. Amanda and Brendan felt it was best to avoid any discussion of Sloane altogether. Amanda was depressed and some days struggled to get out of bed. She began to see a therapist and was diagnosed with post-traumatic stress disorder from the trauma she experienced as a result of her loss compounded by Georgia’s abortion ban.

Amanda and Brendan were devastated about their loss but also incensed at how much more traumatic this process was because of the ban. Amanda knew what would be best for her health and her family, yet doctors' hands were tied by laws written by politicians. Amanda frequently thinks to herself, "this ban made me and my family suffer; how is that pro-life?" Amanda wishes that every Georgia lawmaker was in the room with her at her scans to experience her anguish while seeing her fetus and hoping it had already passed. Amanda's father, once opposed to abortion, has changed his stance after witnessing how Georgia's abortion ban tormented his daughter and son-in-law. He was shocked that, despite the so-called exceptions under the law, individuals have no choice even when pregnancies are likely doomed. Initially worried about their Catholic families' judgment, Amanda and Brendan were thankful for their loved ones' support throughout the worst experience of their lives and for their outrage that Georgia's abortion law had deprived Amanda of bodily autonomy.

Amanda is currently pregnant again through IVF and in her third trimester. Amanda and Brendan are hopeful but circumspect; this pregnancy has been "very scary" for them. At each scan, fearing the worst, Brendan becomes so anxious that he physically shakes. The couple has asked not to see the fetus on the screen, knowing it will dredge up painful memories of seeing Sloane. They have yet to say their baby's name out loud and do not plan to do so until the baby is born healthy and in their arms.

Amanda said she wants people to understand that she would have chosen to continue the pregnancy if Sloane could have survived, and she was prepared to give Sloane all of the care and love in the world. But Sloane was not going to live, and no amount of medical intervention would ever have

changed that devastating fact. Amanda knew she had no viable option other than termination—yet the choice to save her own life was not hers to make because Georgia’s abortion ban took her autonomy away. “It was devastating enough to lose a baby,” but to be forced to “let [her] body be in the control of lawmakers” made Amanda’s experience all the more traumatizing.

5. Katherine Stratton

Katherine and Michael met in 2014 in Boston and bonded over their ties to Georgia—Katherine was born in Atlanta, and Michael had graduated from Georgia Tech. It was a match meant to be, and soon they were married.

At the start of the COVID-19 pandemic, Katherine and Michael traveled to Georgia to spend time with Katherine’s parents. The couple intended to stay for a few weeks, but they enjoyed living in Atlanta so much they decided to make the city their home and bought a house in 2021. They had many friends and family nearby and looked forward to starting a family there.

The couple began renovating their new house, and Michael started a business in Georgia. Although they wanted children, they had not set an exact timeline. To her surprise and joy, Katherine found out she was pregnant in 2022. The couple welcomed this new stage of their lives, and their family and friends shared in their excitement.

Katherine and Michael began thinking about childcare, a baby shower, and ordering a crib. At six weeks gestation, the doctors told Katherine that the pregnancy was progressing well.

But Katherine began bleeding unexpectedly early in her pregnancy and at around twelve weeks, her doctors diagnosed her with uterine fibroids. At week thirteen, Katherine was still bleeding. Nervous, she returned to the hospital for an ultrasound and went to a new practice where doctors assured her that fibroids are normal during pregnancy, but can cause pain.

At nineteen weeks, Katherine and Michael went to the hospital for a routine anatomy scan. The fibroids had grown so large that her cervix was not visible on the scan. The doctor performed a speculum exam, and, to everyone's shock, determined that Katherine was significantly dilated. Katherine cried when she was admitted to the labor and delivery unit. She and Michael were in a daze, worried and unsure of what would happen next. It was Friday.

Katherine's doctors explained that they would attempt an emergency cerclage the following Monday, a procedure to stitch Katherine's cervix in an effort to prevent her water from breaking. The doctors mentioned Georgia's abortion ban, but Katherine was confused—she did not want to lose the baby. What was happening? Facing a hospital stay and the possibility of months on bedrest, Katherine and Michael knew they would “do anything” for this pregnancy. Katherine started antibiotics, and she spent the weekend at the hospital trying not to move while she and Michael frantically researched the emergency cerclage procedure. By Sunday, she was more hopeful that doctors could save her pregnancy.

But the next day, all hope was lost. The doctor told Katherine and Michael that the cerclage was not possible. Desperate to save the pregnancy, Katherine asked what would happen if they waited it out. The news was

stark and painful: there was less than a one percent chance that the fetus would survive to viability. Katherine's doctor explained that termination typically would be indicated in a situation such as this to avoid a life-threatening infection. However, given Georgia's new abortion ban, which had been in effect for less than a week, the doctor was not sure this routine procedure would be legal. About an hour after receiving the devastating news, Katherine's water broke. Because there was still a heartbeat, doctors did not give Katherine medicine to accelerate labor for fear of it being classified as an illegal abortion. Katherine sat with the reality that she had to wait until the fetus's heartbeat stopped or until she developed a life-threatening infection.

Doctors took Katherine off antibiotics and explained that this was an effort to allow for—to even encourage—an infection, to create a situation that made doctors more comfortable that an abortion would be legally permissible. But this strategy also risked Katherine's life. Katherine says the doctors “worried about both infection and the law all day.” The hospital's ethics committee also met to consider her case. Katherine believes she was among the first patients at this hospital in this situation after Georgia's abortion ban took effect, and doctors were unsure what course to take—a reality that terrified Katherine and Michael. The “doctors seemed really scared and you don't want to be in a situation with your doctor being terrified,” she said.

The uncertainty that the hospital may not allow doctors to act in the best interest of the patient created significant anxiety. Michael said, “the only legal options carried significant risks to Katherine's life and, had this happened a week earlier, there would have been a safe option.”

For Katherine, it was “hard for [her] brain to switch from wanting the baby, to knowing that the baby could not survive, to the possibility” that she could die while waiting for the right circumstances to receive a legal abortion in her home state. Though devastated, Katherine said she knew she needed an abortion as soon as possible to preserve her own life and health.

Later that evening, the scan showed that the fetus’s heartbeat had stopped. Labor was induced, and Katherine birthed a son who was stillborn. They held him and named him Mack, short for her maiden name, McKenna, and took photographs as the only mementos they have. Katherine felt so much sadness thinking about Mack and remembering how she felt him as he kicked in utero that past weekend.

To Katherine, it felt “surreal” going to the funeral home to pick up his remains rather than bringing a baby home. Mack’s ashes are in the family’s living room. She finds it difficult looking at the picture of Mack.

At the beginning of her pregnancy, Katherine had heard about Georgia’s abortion ban. Although she did not support the law, Katherine appreciated that the ban included what she had previously understood to be protections for the mother’s safety; she had not been aware that the emergency exception contained such narrow and confusing eligibility criteria. Never did Katherine imagine that the abortion ban would touch their life, their family. She is angry that the abortion ban put her life in a threatening situation and caused needless suffering and anxiety, when there was no chance that her pregnancy would reach viability. Katherine feels that the Georgia legislature did not consult enough doctors, if they consulted any, when they wrote the law. Katherine believes that what happened to her “is

not the intention of the law, but because of how it is written, it had this impact.”

Katherine and Michael debated whether to move to another state when trying to become pregnant again. But Katherine thought, “why should I leave my family and home?” Tragically, Katherine suffered a miscarriage during her second pregnancy. But a third pregnancy resulted in the birth of her son.

Through her most recent pregnancy, Katherine experienced intense anxiety. She requested to have more scans than recommended because she was so nervous. Katherine’s mother, Kay, worried constantly about her daughter’s safety. Katherine worried the whole time, too. Because of what she had been through, “it was hard to imagine having a healthy baby.”

Katherine never thought she would want or need an abortion; she did not even realize that what she needed was considered to be an abortion. She is concerned that Georgians have not been made aware “that people could die as a result of these laws . . . It causes so many difficult situations for women who are trying to safely have a baby.” For Katherine, “pregnancy is so much more medically complicated than [she] realized.” Simply put, “this can happen to anyone.” Michael agrees, noting that “the way the laws are written” forces people into difficult situations where doctors are unsure how to save their lives without breaking the law.

As Katherine recounts her story, her son joyfully squeals in the background. After suffering from Georgia’s abortion ban, Katherine leaves a final impression—“hopefully something changes in Georgia to protect mothers.”

CONCLUSION

The stories of these *amici* illustrate how Georgia's abortion ban is endangering Georgians' health and lives, compounding the grief of pregnancy loss with the trauma of being denied urgently needed health care, and putting their families through the devastating experience of watching a loved one suffer. This Court should affirm the judgment of the Superior Court.

Respectfully submitted,

/s/ Emerson W. Girardeau III

Emerson W. Girardeau III

Georgia Bar Number 803-029

WILLKIE FARR & GALLAGHER LLP

600 Travis Street

Houston, TX 77002

(713) 510-1755

egirardeau@willkie.com

COUNSEL FOR AMICI CURIAE

January 27, 2025

CERTIFICATE OF COMPLIANCE

This submission does not exceed the word-count limit imposed in Rule 20.

/s/ Emerson W. Girardeau III
Emerson W. Girardeau III
Georgia Bar Number 803-029
WILLKIE FARR & GALLAGHER LLP
600 Travis Street
Houston, TX 77002
(713) 510-1755
egirardeau@willkie.com

CERTIFICATE OF SERVICE

I certify that there is a prior agreement with the following parties to allow documents in a PDF format sent via e-mail to suffice for service under Supreme Court Rule 14. I hereby certify that on January 27, 2025, I caused a true and correct copy of the foregoing *amicus* brief to be served on all parties by email as follows:

Christopher M. Carr
Attorney General
Stephen J. Petrany
Solicitor General
Ross W. Bergethon
Principal Deputy Solicitor General
Elijah J. O'Kelley
Assistant Solicitor-General
Office of the Attorney General
40 Capitol Square SW
Atlanta, GA 30334
spetrany@law.ga.gov

Counsel for the State of Georgia

Julia Blackburn Stone
Sarah Brewerton-Palmer
Katherine Gamsey
Caplan Cobb LLC
75 Fourteenth St. NE, Suite 2700
Atlanta, GA 30309
jstone@caplancobb.com
spalmer@caplancobb.com
kgamsey@caplancobb.com

Attorneys for All Plaintiffs-Appellees

Tiana S. Mykkeltvedt
Michael B. Terry
Jane D. Vincent

Amber Greenaway
Bondurant Mixson & Elmore LLP
1201 W. Peachtree St. NW, Suite 3900
Atlanta, GA 30309
mykkeltvedt@bmelaw.com
vincent@bmelaw.com
greenaway@bmelaw.com

Attorneys for All Plaintiffs-Appellees

Julia Kaye
Rebecca Chan
Brigitte Amiri
Johanna Zacarias
American Civil Liberties Union Foundation, Inc.
125 Broad St., 18th Floor
New York, NY 10004
jkaye@aclu.org
rebeccac@aclu.org
bamiri@aclu.org
jzacarias@aclu.org

*Attorneys for SisterSong Women of Color Reproductive Justice
Collective, Atlanta Comprehensive Wellness Clinic, Atlanta Women's
Medical Center, FemHealth USA d/b/a Carafem, Summit Medical
Associates, P.C., and Drs. Cwiak, Haddad, and Lathrop*

Cory Isaacson
Nneka Ewulonu
American Civil Liberties Union Foundation of Georgia, Inc.
P.O. Box 570738
Atlanta, GA 30357
cisaacson@acluga.org
newulonu@acluga.org

*Attorneys for SisterSong Women of Color Reproductive Justice
Collective, Atlanta Comprehensive Wellness Clinic, Atlanta Women's
Medical Center, FemHealth USA d/b/a Carafem, Summit Medical
Associates, P.C., and Drs. Cwiak, Haddad, and Lathrop*

Jiaman (“Alice”) Wang
Cici Coquillette
Center for Reproductive Rights
199 Water St., 22nd Floor
New York, NY 10038
awang@reprorights.org
ccoquillette@reprorights.org

Attorneys for Feminist Women’s Health Center and Medical Students for Choice

Kyla Eastling
Ella Spottswood
Planned Parenthood Federation of America
123 William St., Floor 9
New York, NY 10038
kyla.eastling@ppfa.org
ella.spottswood@ppfa.org

Attorneys for Planned Parenthood Southeast, Inc.

/s/ Emerson W. Girardeau III
Emerson W. Girardeau III
Georgia Bar Number 803-029
WILLKIE FARR & GALLAGHER LLP
600 Travis Street
Houston, TX 77002
(713) 510-1755
egirardeau@willkie.com