

**IN THE MICHIGAN SUPREME COURT
Appeal from the Michigan Court of Appeals
(Murray, C.J., Ronayne Krause, Tukel, J.J.)**

IN RE KOPCZYK MINORS,

Supreme Court No.: 161878

**Court of Appeals No.: 348999
Consolidated with
Court of Appeals No.: 349687**

**Macomb County Circuit Court
Lower Court Nos.: 16-191-NA and
16-192-NA
Hon. Mark S. Switalski**

**CHILD USA'S
MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE**

THIS APPEAL INVOLVES THE CUSTODY OF MINOR CHILDREN

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NOW COMES CHILD USA,¹ a 501(c)(3) non-profit think tank based in Philadelphia, Pennsylvania, by and through its counsel Alexander S. Rusek of White Law PLLC, and moves this Honorable Court for leave to file an Amicus Curiae Brief in support of Appellant Non-Respondent Mother in this matter pursuant to MCR 7.312(H)(1). In support of its Motion for Leave to Participate as Amicus Curiae, CHILD USA states:

1. This appeal arises from a child welfare case where the Michigan Department of Health and Human Services’s (“DHHS”) petition to terminate Respondent-Father’s (“Father”) parental rights was dismissed in Macomb County Circuit Court Case Numbers 16-19-NA and 16-192-NA.
2. On July 23, 2020, the Michigan Court of Appeals issued an unpublished opinion affirming the Trial Court’s denial of the petition for the termination of parental rights, ruling that the Non-Respondent Mother (“Mother”) does not have standing to appeal the trial court’s decision, and further ruling that DHHS failed to satisfy its burden to prove one of the statutory grounds for termination of parental rights despite the evidence presented in the lower court establishing that Minor MK was sexually abused by her Father.
3. Mother has filed an Application for Leave to Appeal which is currently pending in the Michigan Supreme Court.
4. The questions presented by this case are: (1) Whether leave to appeal should be granted to Mother where the Court of Appeals’ dismissal for lack of standing creates a harmful error

¹ See <https://childusa.org/>.

and is directly contrary to established Michigan precedent; and (2) Whether leave to appeal should be granted where the Trial Court failed to find that DHHS satisfied its burden to prove one of the statutory grounds for termination of parental rights, and when the Michigan Court of Appeals erroneously affirmed that decision without a proper review of the record which would have led the Michigan Court of Appeals to hold that the decision of the Trial Court was clearly erroneous.

5. The instant case presents significant legal issues that impact child welfare across the State of Michigan.
6. The instant case presents questions regarding whether standing issues may bar parents from advocating for their child's best interests, especially when the child is unable to do so themselves because of their young age.
7. The instant case also presents questions regarding the weight to be given to a child's disclosure of sexual assault and the methods for determining whether such disclosure is sufficient evidence to support the termination of parental rights.
8. This Honorable Court's decision in this case will have a significant impact on child welfare cases throughout the State of Michigan, which will also effect the national body of child welfare case law.
9. These questions are central to CHILD USA's mission to advocate for children's rights and abuse prevention across the nation and internationally.
10. CHILD USA is a 501(c)(3) non-profit think tank that conducts evidence-based legal, medical, and social science research to identify laws and policies affecting child protection.
11. CHILD USA advocates for legal reform to prevent child abuse across the country.
12. Professor Marci Hamilton is a Founder and current CEO of CHILD USA.

13. Professor Hamilton is one of the United States' leading church/state scholars and a Founder, Academic Director, and CEO of CHILD USA. She is also a Fox Family Distinguished Scholar at the University of Pennsylvania.
14. Before founding CHILD USA, Professor Hamilton held the Paul R. Verkuil Chair in Public Law at the Benjamin N. Cardozo School of Law, Yeshiva University. She is the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008) and *God vs. the Gavel: Religion and the Rule of Law* (Cambridge University Press 2005, 2007).
15. Professor Hamilton clerked for Associate Justice Sandra Day O'Connor of the Supreme Court of the United States and Judge Edward R. Becker of the United States Court of Appeals for the Third Circuit. She received her J.D., magna cum laude, from the University of Pennsylvania Law School, where she served as Editor-in-Chief of the *University of Pennsylvania Law Review*. She also received her M.A. in Philosophy and M.A., high honors, in English from Pennsylvania State University, and her B.A., summa cum laude, from Vanderbilt University. She is a member of Phi Beta Kappa and the Order of the Coif.
16. Professor Hamilton is a national expert on childhood sex abuse; the statutes of limitations that make it difficult for victims to pursue justice; and defenses that may lead to the neglect of children. Hamilton has filed countless pro bono amicus briefs for the protection of children at the Supreme Court of the United States and the state supreme courts, and has submitted testimony and advised legislators in every state where significant statute of limitation reform has occurred.
17. In 2020 alone, CHILD USA has filed amicus briefs in the Supreme Court of the United States in *Fulton, et al. v. City of Philadelphia, Pennsylvania, et al.*, Case No.: 19-123,

Trump, et al. v. Pennsylvania, et. al., Case No.: 19-454, and *Our Lady of Guadalupe School, et al. v. Biel*, Case Nos.: 19-267 and 19-348. Additionally, CHILD USA has also filed amicus briefs in numerous state and federal appellate courts in 2020.²

18. Professor Hamilton and CHILD USA representatives have testified across the nation on issue affecting the health and well-being of children. For example, recent testimony has been provided to legislatures in South Dakota (2020), New Hampshire (2020), Kansas (2020), Hawaii (2020), Pennsylvania (2019), Vermont (2019), Connecticut (2019), Rhode Island (2019), New Jersey (2019), California (2019), Maryland (2019), New York (2019), Chile (2018), Georgia (2018), and Michigan (2018).
19. CHILD USA believes and advocates that children's healthcare is a legal duty. Sexual abuse and the maltreatment of children have an all too frequent impact on children's health. These acts often occur in secret, behind closed doors, but have far-reaching public consequences. Survivors, their families, and the public pay a high price even decades after the violence ends. CHILD USA is a childhood abuse nonprofit that cuts through the shame and the secrecy to gather and analyze the data behind abuse and neglect.
20. As a child abuse nonprofit dedicated to protecting kids and preventing abuse, CHILD USA conducts research, compiles evidence, promotes ideas, and proposes the most effective policies to prevent childhood abuse and neglect.
21. CHILD USA draws on the combined expertise of the nation's leading medical and legal academics to reach evidence-based solutions to persistent and widespread child abuse and neglect.
22. All child survivors deserve justice, and CHILD USA aims to find the path for them.

² See <https://childusa.org/amicus-advocacy/>.

23. To further CHILD USA’s mission, CHILD USA has, among others, the following current initiatives that affect children and survivors of childhood sexual abuse across the country:

- a. Statute of limitations reform.³
- b. Abuse and neglect of athletes by and through the “Game Over Commission.”⁴
- c. Family court reform.⁵
- d. Conversion therapy reform.⁶
- e. Medical neglect and vaccination reform.⁷
- f. Amicus advocacy.⁸
- g. Child marriage reform.⁹
- h. Childhood sexual abuse reform.¹⁰

24. CHILD USA Ambassadors help support CHILD USA’s advocacy efforts across the nation and includes Ambassadors such as Leah Remini (National Ambassador for Child and Family Protection), Justin Conway, Corey Feldman, Lyndsey Gamet, Danielle Pollack, and Vinka Jackson (International Ambassador).¹¹

25. CHILD USA social science researchers are also engaged in valuable research into the causes and effects of childhood sexual abuse across the world.¹² The parties to this matter,

³ See <https://childusa.org/sol/>.

⁴ See <https://childusa.org/abuse-neglect-of-athletes/>.

⁵ See <https://childusa.org/familycourts/>.

⁶ See <https://childusa.org/conversion-therapy/>.

⁷ See <https://childusa.org/medicalneglect/>.

⁸ See <https://childusa.org/amicus-advocacy/>.

⁹ See <https://childusa.org/child-marriage/>.

¹⁰ See <https://childusa.org/child-sex-abuse/>.

¹¹ See <https://childusa.org/ambassadors/>.

¹² See <https://childusa.org/social-science/>.

without the assistance of CHILD USA as amicus curiae, are unable to provide insight into the latest research regarding childhood sexual abuse.

26. MCR 7.312(H)(1) sets forth that “An amicus curiae brief may be filed only on motion granted by the Court except as provided in subsection (2).” MCR 7.312(H)(1).¹³

27. The issues on appeal in this matter are of great concern and importance to the goals of CHILD USA.

28. CHILD USA is in perhaps the best position of any national childhood abuse advocacy group to assist this Honorable Court in addressing the issues raised in this matter and respectfully requests that it be granted the opportunity to file an amicus curiae brief in this matter.

¹³ Subsection 2 is not applicable to CHILD USA in this matter. MCR 7.312(H)(2).

REQUEST FOR RELIEF

WHEREFORE, CHILD USA respectfully requests that this Honorable Court grant it permission to file an amicus curiae brief in this matter. On September 16, 2020, this Honorable Court granted separate motions of the Lawyer-Guardian Ad Litem and Respondent-Appellee and extended the time for the filing of their Answers to the Application for Leave to Appeal to October 9, 2020 [Dkt. 90]. Therefore, if granted permission to file an amicus curiae brief in this matter, CHILD USA requests that it be allowed to file its amicus curiae brief on or before October 16, 2020.

Respectfully Submitted,

Date: 9/24/2020

/s/ Alexander S. Rusek

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PROOF OF SERVICE

I certify that on the date below that CHILD USA's Motion for Leave to Participate as Amicus Curiae and this Proof of Service were filed with the Court Clerk of the Michigan Supreme Court by eFiling through the Court's eFiling system and copies of the same were served on all other parties through the Court's eFiling system.

I declare under the penalty of perjury that the above statement is true to the best of my information, knowledge, and belief.

Respectfully Submitted,

Date: 9/24/2020

/s/ Alexander S. Rusek

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