

**IN THE SUPREME COURT OF MARYLAND**

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No. SCM-PET-0195-2026  
September Term, 2026

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MULUGET GEBREHAWARIAT,

Appellant,

v.

OMAR DIBBA,

Appellee.

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From the Appellate Court of Maryland  
ACM-REG-2456-2024  
Appealed from the Circuit Court for Montgomery County, Maryland  
No. C-15-FM-811924  
(The Honorable Debra Dwyer and Christopher Fogleman, Judges)

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**BRIEF OF AMICI CURIAE ASSOCIATION OF PROFESSIONALS  
SOLVING THE ABUSE OF CHILDREN AND CHILD USA PURSUANT TO  
RULE 8-511(e)(1) IN SUPPORT OF APPELLANT'S PETITION  
FOR WRIT OF CERTIORARI**

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### **AMICI CURIAE STATEMENT OF INTERESTS**

The Association of Professionals Solving the Abuse of Children (APSAC) and Child USA are leading national organizations serving children and families affected by child maltreatment, including child sexual abuse. APSAC's central role in advocating against child maltreatment, such as developing professional guidelines that address best practices for interviewing children, and Child USA's work effecting public policies to protect children from sexual abuse and online exploitation mean the amici are well qualified to inform the court about the immediate and persistent harms to child sexual abuse victims and survivors. Amici therefore have a substantial interest in ensuring that courts uphold broad remedial protections for children.



## **INTRODUCTION**

Mother's appeal should be heard because the Appellate Court's decision runs afoul of Maryland's strong public policy against child abuse and in favor of providing abused children access to justice. *See Sterling v. Md. Dep't of Transp.*, No. 1065, Sept. Term, 2020, 2021 WL 4786934, at \*8 (Md. Ct. Spec. App. Oct. 14, 2021) ("In Maryland, public policies that have received protection include . . . the protection of children from abuse or neglect[.]").

If left undisturbed, however, the lower court's injection of privilege between the abused child and forensic evaluators—which CJP § 9-109 does not demand—means that Maryland supports hearing from abused children for reporting purposes<sup>1</sup>, while also impeding final justice for those children in the courtroom.

Those inconsistent and mismatched policies must be reconciled. The Appellate Court held that Mother's expert, Dr. Kelly Champion, could not testify to the substance of the child's forensic interview in court without waiver of privilege by a child-privilege attorney. The Appellate Court deemed all forensic examinees a "patient" so that a psychotherapist-patient privilege applied, irrespective of the existence of a clinical relationship.

Declining certiorari in this matter means Maryland family law courts will cite the Appellate Court decision again and again because it is the only Maryland authority of its kind on the issue. That decision, left alone, will have a chilling effect, silencing the Maryland healthcare community by dissuading forensic evaluators from

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<sup>1</sup> In line with its public policy, Maryland has implemented robust mandatory reporting requirements for those who learn of child abuse. *See* MD CODE ANN., FAM. LAW, TIT. 5, SUBT. 7, §§5-701-715.

assisting these cases. Their role is to investigate and help the court ensure a path to protection for children. But no court is helped when evaluators are so restrained by privilege that they cannot do the jobs thousands of Maryland children rely on them to perform every year.

### **ARGUMENT**

Child abuse is a tragic societal dilemma across this country, and unfortunately Maryland is no exception. Between 2010 and 2019, 423 Maryland children have died as a result of abuse or neglect.<sup>2</sup> Maryland saw 1,614 reported cases of child sexual abuse in 2023, 1,974 cases in 2022, and 2,066 cases in 2021.<sup>3</sup> Total referrals made for child abuse and neglect in the state in 2024 alone reached 67,147, and 22.6 percent of those referrals were due to sexual abuse.<sup>4</sup> As of 2024, parents are the perpetrators of child abuse in Maryland 60.5 percent of the time.<sup>5</sup>

These statistics explain why Maryland legislators enacted statutes to provide immediate protection to these children. The same statistics also underlie the importance of hearing Petitioner's case under CJP § 12-203. The Supreme Court of Maryland should hear this matter because the impact of the Appellate Court's erroneous opinion will have lasting implications, not only for the one minor child in this case, but for tens of thousands of minor children in Maryland vulnerable to abuse.

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<sup>2</sup> Maryland Dept. of Health, *Child Abuse or Neglect Data Brief*, available at <https://health.maryland.gov/phpa/mch/Documents/CFR/Child%20Abuse%20or%20Neglect%20Data%20Brief.pdf>.

<sup>3</sup> Maryland Coalition Against Sexual Assault, *Incidence of Child Sexual Abuse in Maryland*, available at [https://mcasa.org/assets/files/Incidence\\_of\\_CSA\\_Fact\\_Sheet\\_2025.pdf](https://mcasa.org/assets/files/Incidence_of_CSA_Fact_Sheet_2025.pdf).

<sup>4</sup> Child Welfare League of America, *National Children's Fact Sheet for Maryland*, available at <https://www.cwla.org/wp-content/uploads/2026/04/Maryland-2026.pdf>.

<sup>5</sup> *Id.*

# **I. FORCING A PSYCHOTHERAPIST-PATIENT PRIVILEGE ON FORENSIC EVALUATORS HAS A CHILLING EFFECT.**

If left undisturbed, the Appellate Court decision chills the entire Maryland healthcare community by imposing psychotherapist-patient relationships where none exist.

The Appellate Court wrongly recognized a privilege not found in § 9-109. That is because a forensic evaluator does not treat and carries “no therapeutic relationship with the individual being evaluated[.]” (Kraus, Louis J., *et al.*, *Practice Parameter for Child and Adolescent Forensic Evaluations*, J. OF THE AMER. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY 50(12) (2011) at 1.)

In fact, forensic evaluators who become a child’s treating psychologist risk violating professional ethics. *See* APA §§ 3.05-3.06. The APA cautions evaluators who become a treating clinician because a dual role likely creates conflict and “risks exploitation or harm” to the child. *Id.*

For those and many other reasons, forensic evaluators purposely avoid blurring the role the Appellate Court calls for. The repercussions in making that line indistinguishable are costly: evaluators would subject themselves to licensure board complaints, disqualified testimony, malpractice insurance, or civil liabilities or malpractice suits, to name a few. (Greenberg, Stuart A., *et al.*, *Irreconcilable Conflict Between Therapeutic and Forensic Roles*, PROF. PSYCHOL.: RESEARCH AND PRACTICE (28)(1) (1997) at 55-6.) *See, e.g.*, MD. CODE REGS. 10.58.03.05.

Unlike a therapist who answers to the child as its patient, the forensic evaluator

answers to the attorney who retained her or the court that appointed her. The evaluator must provide the court the truth (i.e., reliable evidence even at the expense of the examinee). (Greenberg, Stuart A. *et al.*, *When Worlds Collide: Therapeutic and Forensic Roles*, PROF. PSYCHOL: RESEARCH AND PRACTICE 38(2) (2007) at 130-1.) For instance, children in a forensic setting, like here, are informed that the interview is recorded, they must tell the truth, and the information may be shared with others.

It would be unethical for a therapist to demand that from a client. This is why evaluators have a duty to inform examinees of the potential *lack* of privilege and use of the examination in a proceeding. (Greenberg, *et al.*, *Irreconcilable* at 52.) The opposite result makes the very resource and liaison who bridges the gap between reported abuse and final legal remedies in court scarce.

## **II. THE APPELLATE COURT’S ERRONEOUS DECISION EVISCERATES PROTECTION FOR MARYLAND CHILDREN.**

It is only a court order—not merely the reporting of abuse—that affords finality and legal protection for an abused child. Maryland has robust mandatory reporting laws for those who learn of child abuse. Yet the Appellate Court decision effectively precludes from evidence the very testimony that would support a court order necessary to safeguard children.

The reason a mandated reporter is so broadly defined in Maryland is that when a child discloses abuse, the child is afforded immediate protections. MD FAM. LAW CODE § 5-705. Privilege protections<sup>6</sup> do not apply. Indeed, no “other provision of

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<sup>6</sup> § 5-705 includes two exceptions for attorney-client and ministerial privilege protections, which are not applicable here. § 5-705(a)(2)-(3).

law” can limit the protection § 5-705 affords. Yet, both lower courts in this case held that those same protections should stop at the courthouse steps.

**A. Maryland Courts Will Cite to the Appellate Court Decision as the Sole Maryland Authority On this Important Issue.**

The Appellate Court’s unreported decision sits alone as authority on the issue in Maryland courts. *See* Pet. at 1 & Ex. 1-4. Without other precedent, it is unavoidable that judges in family rotations in county courts across the state will cite to it as persuasive authority to enforce similar rulings. *See, e.g., Hamilton v. State*, No. 2212, Sept. Term 2023, 2025 WL 2992314, at \*4 (App. Ct. Md. Oct. 24, 2025) (finding unreported opinion persuasive where there was no reported decision on the issue).

This means the Appellate Court’s solitary opinion does more harm than affirm an unjust result for a single child in this case. It has the cascading effect of crippling access to justice for all Maryland children disclosing abuse.

**B. Other States Do Not Make This Distinction**

The Appellate Court’s decision runs contrary to the majority of states, which expressly *prohibit* applying privilege differently for reporting and testimonial purposes in child abuse cases. In fact, thirty-five state statutes forbid using the psychologist-patient privilege to exclude testimony of child abuse in judicial proceedings.<sup>7</sup>

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<sup>7</sup> *See, e.g.,* FL. STAT. ANN. § 39.204 (psychotherapist-patient privilege not grounds for excluding evidence at any proceeding regarding child abuse); MO. ANN. STAT. § 210.140 (same); 23 PA. STAT. AND CONS. STAT. ANN. § 6381 (same); CAL. PENAL CODE § 11171.2 (same); NEB. REV. STAT. ANN. § 28-707 (same); ARK. CODE ANN. § 12-18-803 (same); IDAHO CODE ANN. § 16-1606 (same); OR. REV. STAT. ANN. § 419B.040 (same); MINN. STAT. ANN. § 260E.04 (same); N.M. STAT. ANN. § 32A-4-5 (same); N.C. GEN. STAT. ANN. § 7B-310 (same); OHIO REV. CODE ANN. § 2151.421 (same); TEX. FAM. CODE ANN. § 261.202 (same); UTAH CODE ANN. § 80-2-602(5)(b) (same); KAN. STAT. ANN. § 38-2249 (same); N.D. CENT. CODE ANN. § 50-25.1-10 (same); S.D. CODIFIED LAWS § 26-8A-15 (same); WYO. STAT. ANN. § 14-3-210 (same); KY. REV. STAT. ANN. § 620.030 (same); MONT. CODE ANN. § 41-3-204 (same); AZ LEGIS 143 (2026), 2026 ARIZ. LEGIS. SERV. CH. 143 (S.B. 1127) (*amending* ARIZ. REV. STAT. ANN. § 13-3620) (same); TENN. CODE ANN. § 37-1-411 (same); ALASKA STAT. ANN. § 47.17.060

Moreover, national public policy demands that child protection is paramount and so testimony of abuse should not be subjected to the formalities of traditional evidentiary safeguards like privilege. The U.S. Supreme Court recognizes this policy, opining that “statements by very young children” in abused circumstances is not prosecutorial at all; they “simply want the abuse to end.” *Ohio v. Clark*, 576 U.S. 237, 247-48 (2015). Otherwise, the statements “would have no discernible purpose at all.” *Id.* (allowing testimony of child’s abuse into evidence over objection that statements violated the Confrontation Clause).

And where the disclosure derives from a forensic evaluator interview like Dr. Champion conducted, there is no psychotherapist-patient privilege to be waived or refuted by statute because it does not apply. Other states have clarified that patient privilege is not applicable to a forensic evaluation, even where the mandatory reporting statute does not expressly state it. *See, e.g., State v. Bergquist*, 210 Vt. 102, 122-23 (2019) (forensic evaluation regarding abuse was not protected by patient privilege so relevant portions of child testimony were admissible, even though VT. STAT. ANN. TIT. 33, § 4913 does not express the same); *State v. Hyder*, 159 Wash. App. 234, 246-48 (2011) (same as to father’s disclosure of abuse to therapist, even though WASH. REV. CODE ANN. § 26.44.030 does not express it). Public policy demands that Maryland

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(same); ALA. CODE 1975 § 26-14-10 (same); COLO. REV. STAT. ANN. § 19-3-311 (same); DEL. CODE ANN. TIT. 16, § 909 (same); IOWA CODE ANN. § 232.74 (same); 325 ILL. COMP. STAT. ANN. 5/10 (same); NEV. REV. STAT. ANN. § 432B.255 (same); OKLA. STAT. ANN. TIT. 10A, § 1-4-507 (same); W. VA. CODE ANN. § 49-2-811 (same); MICH. COMP. LAWS ANN. § 722.631 (same); 40 R.I. GEN. LAWS ANN. § 40-11-7.2 (privilege does not preclude admissibility of videotape recording of interview); N.J. STAT. ANN. § 9:6-8.46 (proof of abuse is admissible in any hearing on the issue of abuse) NH REV. STAT. § 169-C:12 (same).

should rule similarly.

Accordingly, public policy implores this Court to grant certiorari so that this case is heard and the Appellate Court's decision is reversed.

Dated: July 10, 2026

Respectfully submitted,

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**RULE 8-511(e)(2) STATEMENT**

Amici intend to seek consent of the parties or move for permission to file an amici curiae brief on the issues before the Court if certiorari is granted.

Dated: July 10, 2026

/s/ Brittany E. De Vries  
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**CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112 AND 8-511**

1. This brief contains 1880 words, excluding the parts of the brief exempted from the word count by Rule 8-503, as required by Rule 8-511(e)(1)-(e)(4).

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112 because it has been prepared in a proportionally spaced typeface in 13-point Times New Roman font with double spacing between lines, excluding parts of the brief exempted by Rule 8-112(c)(2).

3. This brief complies with the applicable provisions of Rule 8-112 as required by Rule 8-511(d)(2). It is excepted from compliance with Rules 8-503 and 8-504 under Rule 8-511(d)(2).

Dated: July 10, 2026

/s/ Brittany E. De Vries  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2026, I caused two true and correct copies of the foregoing *Brief of Amici Curiae Association of Professionals Solving the Abuse of Children and Child USA Pursuant to Rule 8-511(e)(1) in Support of Granting Appellant's Petition for Writ of Certiorari* to be served via MDEC electronic filing, email and first class U.S. mail, postage prepaid to:

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