

IN THE SUPREME COURT OF NEBRASKA

---

Case No. S-24-251

---

In re Guardianship of Tomas J., a Minor Child

---

ON APPEAL FROM THE COUNTY COURT OF  
HALL COUNTY, NEBRASKA

Honorable Judge Arthur S. Wetzel  
County Court Judge of  
Hall County, Nebraska

---

BRIEF OF AMICUS CURIAE  
ACLU OF NEBRASKA  
IN SUPPORT OF APPELLANT

Respectfully submitted:  
Dylan Severino, #27932  
Rose Godinez, #25925  
ACLU of Nebraska Foundation  
134 S. 13<sup>th</sup> Street #1010  
Lincoln, NE 68508  
(402) 476-8091  
dseverino@aclunebraska.org  
rgodinez@aclunebraska.org

TABLE OF CONTENTS

TABLE OF AUTHORITIES ..... 3

STATEMENT OF THE CASE..... 4

PROPOSITIONS OF LAW ..... 4

STATEMENT OF FACTS..... 5

STATEMENT OF INTEREST OF AMICUS CURIAE..... 5

INTRODUCTION ..... 5

ARGUMENT ..... 6

    I.    A BRIEF BACKGROUND ON SIJS..... 6

    II.   THE APPELLANT’S CASE IS NOT MOOT DUE TO TOMAS’S AGE..... 7

        A.   THE TRIAL COURT HAS JURISDICTION TO ISSUE THE SIJS FACTUAL FINDINGS IN THIS CASE, CONSISTENT WITH LEGISLATIVE INTENT..... 8

        B.   THE CASE IS NOT MOOT BECAUSE THE COURT HAS ADDITIONAL SOURCES OF JURISDICTION..... 10

    III.  THE TRIAL COURT ERRED BY APPLYING “THE LEAST RESTRICTIVE ALTERNATIVE” STANDARD TO A GUARDIANSHIP FOR A MINOR..... 11

        A.   THE PLAIN LANGUAGE OF THE STATUTES REQUIRE THE COURT TO APPLY DIFFERENT STANDARDS TO GUARDIANSHIPS FOR INCAPACITATED PERSONS AND GUARDIANSHIPS FOR MINORS. .... 11

        B.   THE STRUCTURE AND CONTEXT OF THE NPC CLARIFIES THAT THE LEAST RESTRICTIVE ALTERNATIVE STANDARD IS INAPPLICABLE TO GUARDIANSHIPS FOR MINORS. .... 12

C. APPLYING THE LEAST RESTRICTIVE ALTERNATIVE STANDARD TO GUARDIANSHIPS FOR MINORS IS INCONSISTENT WITH STATE LAW.....	14
CONCLUSION.....	15
CERTIFICATE OF COMPLIANCE .....	15

TABLE OF AUTHORITIES

**Cases**

<i>Callahan v. Brant</i> , 314 Neb. 219, 990 N.W.2d 1 (2023) .....	8, 11
<i>Doe v. McCoy</i> , 297 Neb. 321, 899 N.W.2d 899 (2017) .....	8
<i>Hansmeyer v. Nebraska Pub. Power Dist.</i> , 6 Neb. App. 889, 578 N.W.2d 476 (1998), <i>aff'd</i> , 256 Neb. 1, 588 N.W.2d 589 (1999).....	12
<i>In re Erick M.</i> , 284 Neb. 340, 820 N.W.2d 639 (2012) .....	7
<i>In re Guardianship of Carlos D.</i> , 300 Neb. 646, 915 N.W.2d 581 (2018) .....	10
<i>In re Guardianship of Lavone M.</i> , 9 Neb. App. 245, 610 N.W.2d 29 (2000) .....	12
<i>In re Henry P. B.-P.</i> , 327 Conn. 312, 173 A.3d 928 (2017).....	9
<i>In re Interest of Amber G. et al.</i> , 250 Neb. 973, 554 N.W.2d 142 (1996) .....	14
<i>In re Interest of Luis G.</i> , 17 Neb. App. 377, 764 N.W.2d 648 (2009) .....	7
<i>In re Lilly S. v. Kenny S.</i> , 298 Neb. 306 903 N.W.2d 651 (2017).....	14
<i>In re Seth C.</i> , 307 Neb. 862, 951 N.W.2d 135 (2020) .....	13
Neb. Rev. Stat. § 43-1238.....	7
<i>O.Y.P.C. v. J.C.P.</i> , 126 A.3d 349, 352 (N.J. Super. Ct. App. Div. 2015) 9	
<i>Recinos v. Escobar</i> , 473 Mass. 734 (2016) .....	10
<i>State ex rel. Thompson v. Porter</i> , 78 Neb. 811, 112 N.W. 286 (1907)...	14
<i>State on behalf of Daphnie F. v. Christina C.</i> , 310 Neb. 638, 967 N.W.2d 690 (2021) .....	14
<i>Stewart v. Nebraska Dept. of Rev.</i> , 294 Neb. 1010, 885 N.W.2d 723 (2016) .....	8

**Statutes**

Neb. Rev. Stat. § 24-517(2) ..... 10  
Neb. Rev. Stat. § 30-2601(1) ..... 11  
Neb. Rev. Stat. § 30-2610..... 6, 12  
Neb. Rev. Stat. § 30-2620(a) ..... 11  
Neb. Rev. Stat. § 43-1238..... 6  
Neb. Rev. Stat. § 43-1238(a) ..... 7, 8  
Neb. Rev. Stat. § 43-1238(b) ..... 7, 8  
Neb. Rev. Stat. § 43-1241(a) ..... 10  
Neb. Rev. Stat. § 43-2101..... 11  
Neb. Rev. Stat. §§ 30-2605 to 30-2616 ..... 11  
Neb. Rev. Stat. §§ 30-2617 to 30-2629 ..... 11

**Other Authorities**

8 C.F.R. § 204.11(b)..... 6  
8 C.F.R. § 204.11(c) ..... 7  
Introducer’s Statement of Purpose, Legis. B. 354, Judiciary Committee,  
83rd Leg., 1st Sess. (Feb. 21, 1973) ..... 13  
Janine Young et al., *Health Risks of Unaccompanied Immigrant  
Children in Federal Custody and in US Communities*, 114:3 Am. J.  
Pub. Health 340 ..... 6  
Legis. B. 354, 83rd Leg., 2d. Sess. (Neb. 1974) ..... 13, 14  
Pet. for Appointment of Guardianship..... 7  
Tr. .... passim  
Tr. of Floor Debate Apr. 3, 2018..... 9  
Unif. Prob. Code (Unif. L. Comm’n 1969) (amended 2019) ..... 13

STATEMENT OF THE CASE

Amicus accepts and adopts the Appellant’s Statement of the Case.

PROPOSITIONS OF LAW

Amicus accepts and adopts the Appellant’s Propositions of Law.

## STATEMENT OF FACTS

Amicus accepts and adopts the Appellant’s Statement of Facts.

## STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus directs the Court to its Motion for Leave to File Brief of Amicus Curiae for its statement of interest.

## INTRODUCTION

Special Immigrant Juvenile Status (“SIJS”) is a form of humanitarian protection and immigration relief provided by the federal government to abused, neglected, and/or abandoned immigrant children. To qualify for SIJS, children need state courts to issue guardianship or custody determinations and legislatively mandated factual findings relating to the harm they have suffered and their best interests.

Tomas reached the age of majority in October, 2024—nine months after his older brother, Appellant Marvin, petitioned for guardianship. Even so, Nebraska Revised Statute § 43-1238 (“Factual Findings Statute”) provides the court with jurisdiction for child custody and guardianship and factual findings proceedings, and a determination of mootness would be inconsistent with the legislative intent of the statute.

Marvin petitioned the trial court to appoint him as Tomas’s guardian and make SIJS factual findings, but the trial court declined to appoint Marvin as guardian and failed to make the necessary findings. When considering guardianship, the trial court erred in applying the least restrictive alternative standard from Nebraska Revised Statute § 30-2620 (Incapacitated Person Guardianship Statute”), but that standard only applies to persons who are incapacitated by reason other than minority. Rather, the case at hand required the application of the best interests of the child standard for guardianships of minors, such as Tomas. *See* Neb. Rev. Stat. § 30-2610 (“Minor Guardianship Statute”). The trial court also erred when it

failed to make the statutorily required factual findings when Marvin requested them. *See* Neb. Rev. Stat. § 43-1238.

This Court should find this case is not moot because of the minor's age and reverse the trial court's guardianship decision for applying the incorrect standard.

## ARGUMENT

### I. A BRIEF BACKGROUND ON SIJS.

Traveling to and surviving in the United States is especially dangerous for immigrant children without parents:

“[Unaccompanied immigrant children] are at high risk for physical and mental health issues, including acute injury, malnutrition, dehydration, pregnancy, sexual and physical assault, sexually transmitted infections, posttraumatic stress disorder, and depression. Their unaccompanied immigrant status, young age, social marginalization, and other factors render them at high risk for trafficking and other forms of exploitation both outside and inside the United States.”

Janine Young et al., *Health Risks of Unaccompanied Immigrant Children in Federal Custody and in US Communities*, 114:3 Am. J. Pub. Health 340, 340.

SIJS is a form of relief that ameliorates some of these issues by providing qualifying minors with a pathway to citizenship and incentivizing a permanent form of custody, such as guardianship.

To apply for SIJS, a person needs to be younger than 21 years of age and unmarried but reaching 21 after applying will not invalidate the application. 8 C.F.R. § 204.11(b). An applicant for SIJS must also obtain: 1) a state court determination that the applicant is dependent on the court or in custody of a court-appointed agency, department, or individual; and 2) state court factual findings of abuse, abandonment,

and/or neglect; nonviability of reunification with one or both parents; and the best interests of the applicant. 8 C.F.R. § 204.11(c).

State court determinations are a prerequisite to SIJS. In 2009, the Nebraska Court of Appeals determined both trial and appellate courts had jurisdiction and authority to make SIJS findings. *In re Interest of Luis G.*, 17 Neb. App. 377, 764 N.W.2d 648 (2009). In 2012, this Court confirmed that. *In re Erick M.*, 284 Neb. 340, 820 N.W.2d 639 (2012) (issuing SIJS factual findings).

In 2018, the Nebraska legislature amended Nebraska Revised Statute § 43-1238 to explicitly grant jurisdiction to Nebraska courts to make SIJS factual findings, so long as the court has jurisdiction to make custody and guardianship determinations based on temporal and geographic presence of the minor. Neb. Rev. Stat. § 43-1238(a). If the court has jurisdiction and a party requests factual findings, the court must issue them. Neb. Rev. Stat. § 43-1238(b).

## II. THE APPELLANT'S CASE IS NOT MOOT DUE TO TOMAS'S AGE.

Marvin sought to be appointed Tomas' guardian in January, 2024. *See* Pet. for Appointment of Guardianship. The trial court heard the case in February, 2024, *see* Tr. 1, eight months before Tomas turned nineteen in October, 2024, Tr. 6. The Factual Findings Statute provides jurisdiction for courts to make child guardianship and custody determinations and factual findings but does not expressly end jurisdiction if the child reaches the age of majority during the pendency of the proceeding. Neb. Rev. Stat. § 43-1238. Age-based mootness is inconsistent with legislative intent and outright blocks Tomas from applying for an immigration relief which he would qualify for *but for* the trial court's error. Further, even if this Court interprets

a limitation upon age, the trial court has additional sources of jurisdiction under other Nebraska statutes.

A. THE TRIAL COURT HAS JURISDICTION TO ISSUE THE SIJS FACTUAL FINDINGS IN THIS CASE, CONSISTENT WITH LEGISLATIVE INTENT.

“When construing a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense.” *Callahan v. Brant*, 314 Neb. 219, 233, 990 N.W.2d 1, 11 (2023).

The Factual Findings Statute grants courts jurisdiction to make child custody and guardianship determinations based on the child’s temporal and geographic connection to Nebraska. Neb. Rev. Stat. § 43-1238(a). If a court has jurisdiction under subsection (a), subsection (b) grants the court jurisdiction to make SIJS factual findings and further provides: “[i]f there is sufficient evidence to support such factual findings, the court *shall* issue an order containing such findings when requested by one of the parties or upon the court's own motion.” Neb. Rev. Stat. § 43-1238(b) (emphasis added).

“[I]n order for a court to inquire into a statute's legislative history, the statute in question must be open to construction, and a statute is open to construction when its terms require interpretation or may reasonably be considered ambiguous.” *Doe v. McCoy*, 297 Neb. 321, 328, 899 N.W.2d 899, 904 (2017) (citation omitted). The Factual Findings Statute does not expressly limit the jurisdiction to the court only when a person is under the age of majority. As such, the court should turn to the Factual Findings Statute’s legislative history to find that jurisdiction persists even if the person reaches the age of majority during the pendency of the proceeding.

Subsection (b) of the Factual Findings Statute, created by Legislative Bill 826 (“LB 826”), was enacted specifically to facilitate findings for SIJS, and to prevent instances where courts were refusing



to make factual findings in violation of Nebraska precedent. Tr. of Floor Debate Apr. 3, 2018, 101-02 (statement of sen. Vargas) (available at <https://www.nebraskalegislature.gov/FloorDocs/105/PDF/Transcripts/FloorDebate/r2day53.pdf>) (last visited Oct. 24, 2024) (“The intent of [LB826] is to clarify in statute the authority these judges already possess and to ensure that these [SIJS] findings are made when they are requested.”). Before the passage of LB 826, some trial courts were refusing to make SIJS factual findings either because they thought they lacked jurisdiction, or because they thought the findings were not mandatory; but “[n]either of th[o]se reasons are legitimate or lawful.” *Id.*

Consider the instant case, where the trial court refused to make the necessary SIJS factual findings, stating “[t]he reason [Marvin and Tomas] want a guardianship is so that I make specific findings of fact . . . [y]ou’re turning me into an immigration judge . . . [you’re seeking guardianship] to have me make immigration findings . . .” Tr. 37. This case represents the exact situation the legislature attempted to prevent by enacting LB 826. If jurisdiction under the Factual Findings Statute ends when the minor reaches the age of majority, then a trial court could ignore the legislative intent with no consequences if the minor is close to reaching the age of majority.

Other courts deciding cases where the minor has reached the age of majority have granted jurisdiction beyond the age of majority in order to better facilitate legislative intent. For example, in *In re Henry P. B.-P.*, the Connecticut Supreme Court analyzed a similar jurisdictional statute which was also silent on the matter of jurisdictional extension past the age of majority. 327 Conn. 312, 173 A.3d 928 (2017). The court held that a statute with the purpose of facilitating SIJS, which allows applicants under 21 years old, implicitly granted jurisdiction past the age of majority. *Id. See also O.Y.P.C. v. J.C.P.*, 126 A.3d 349, 352 (N.J. Super. Ct. App. Div. 2015) (“[i]t would defeat the purpose of the hybrid federal-state scheme congress created

if state family courts could decline to hear these cases solely because a juvenile is over the age of 18, so long as the juvenile is still under the age of 21.”); *Recinos v. Escobar*, 473 Mass. 734 (2016) (holding that the broad equity powers of probate and family court allows them to extend jurisdiction to people seeking SIJS findings even if they are over the age of majority).

**B. THE CASE IS NOT MOOT BECAUSE THE COURT HAS  
ADDITIONAL SOURCES OF JURISDICTION.**

In addition to the jurisdiction from the Factual Findings Statute, Nebraska courts have jurisdiction under two other Nebraska statutes: the county court jurisdictional statute and the temporary emergency jurisdiction statute. County courts have “[e]xclusive original jurisdiction in all matters relating to the guardianship of a person [unless a separate juvenile court already has jurisdiction].” Neb. Rev. Stat. § 24-517(2). In fact, this Court cited to Nebraska Revised Statute § 24-517(2) in *In re Guardianship of Carlos D.* for its jurisdiction in a guardianship and SIJS factual findings case. 300 Neb. 646, 653-54, 915 N.W.2d 581, 586 (2018).

The trial court also has jurisdiction under Nebraska Revised Statute § 43-1241(a) which provides that “[a] court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child . . . is subjected to or threatened with mistreatment or abuse.” Neb. Rev. Stat. § 43-1241(a). In the instant case, Tomas has not seen his parents in years and has presumably been abandoned, Tr. 14, although the trial court refused to make that mandatory finding. Tomas is in danger of ongoing mistreatment, namely abandonment and neglect. Either treatment, alone, would grant temporary emergency jurisdiction over his guardianship case. Because Tomas has been abandoned and suffers ongoing harm, the trial court has emergency jurisdiction over Tomas.

### III. THE TRIAL COURT ERRED BY APPLYING “THE LEAST RESTRICTIVE ALTERNATIVE” STANDARD TO A GUARDIANSHIP FOR A MINOR.

The Nebraska Probate Code (“NPC”) provides for guardianships for minors, *see* Neb. Rev. Stat. §§ 30-2605 to 30-2616, and guardianships for incapacitated persons, *see* Neb. Rev. Stat. §§ 30-2617 to 30-2629. The trial court erroneously applied the standard for guardianships of incapacitated persons to Tomas’ guardianship matter rather than the standard for guardianships for minors. The blatant error runs contrary to the plain language, structure, and context of the NPC statutes, and is inconsistent with other Nebraska laws.

#### A. THE PLAIN LANGUAGE OF THE STATUTES REQUIRE THE COURT TO APPLY DIFFERENT STANDARDS TO GUARDIANSHIPS FOR INCAPACITATED PERSONS AND GUARDIANSHIPS FOR MINORS.

When interpreting a statute, the primary consideration is to its plain language. *Callahan v. Brant*, 314 Neb. 219, 233, 990 N.W.2d 1, 11 (2023).

A guardian may be appointed for a person who is “incapacitated and [] the appointment is necessary or desirable as the least restrictive alternative available for providing continuing care or supervision . . .” Neb. Rev. Stat. § 30-2620(a). The NPC defines “incapacitated person” as “any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (*except minority*) . . .” Neb. Rev. Stat. § 30-2601(1) (emphasis added).

In the underlying matter, the trial court determined that Tomas was “incapacitated” because he was a minor. Tr. 35-36. However, the plain language of the definition for “incapacitated person” expressly excludes minority. The NPC does not define “minority,” however, the Nebraska Juvenile Code defines “minor” as “[a]ll [unmarried] persons under nineteen years of age.” Neb. Rev. Stat. § 43-2101. Tomas was a

minor at the time of the hearing and not incapacitated, thus the least restrictive alternative standard did not apply.

On the other hand, the Minor Guardianship Statute reads: “The court may appoint as guardian any person whose appointment would be in the best interests of the minor.” Neb. Rev. Stat. § 30-2610. The statute neither states nor implies anything about a least restrictive alternative. “Where different language is used in different parts of a statute, it is presumed that the language is used with a different intent.” *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 900, 578 N.W.2d 476, 483 (1998), *aff’d*, 256 Neb. 1, 588 N.W.2d 589 (1999).

Two separate standards for appointments of guardians exist for incapacitated persons and for minors. *See e.g. In re Guardianship of Lavone M.*, 9 Neb. App. 245, 610 N.W.2d 29 (2000). By the statutory definitions, the two standards are incompatible, and the standards must be kept separate. In holding that Tomas was incapacitated by reason of minority, the trial court applied the incorrect standard and this Court should reverse its holding.

**B. THE STRUCTURE AND CONTEXT OF THE NPC CLARIFIES THAT THE LEAST RESTRICTIVE ALTERNATIVE STANDARD IS INAPPLICABLE TO GUARDIANSHIPS FOR MINORS.**

In addition to the text, the context and structure of the NPC demonstrates that the least restrictive alternative standard does not apply to the minor guardianship cases for three reasons: 1) the Minor Guardianship Statute and Incapacitated Person Guardianship Statute are written in different sections of the NPC; 2) the guardianship for minors section would be redundant if minors were considered incapacitated; and 3) the least restrictive alternative standard was amended into the Incapacitated Person Guardianship Statute but not the Minor Guardianship Statute.

“A court determines a statute's meaning based on its text, context, and structure.” *In re Seth C.*, 307 Neb. 862, 867, 951 N.W.2d

135, 141 (2020) “Components of a series or collection of statutes . . . should be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions are consistent, harmonious, and sensible.” *Id.* The context and structure of the statutes at issue demonstrate the intent of the Legislature was to set two different standards as explained below.

First, the Minor Guardianship Statute and the Incapacitated Person Guardianship Statute are found in entirely different sections of the NPC. The Minor Guardianship Statute is found in article V part 2 of the NPC, whereas the Incapacitated Person Guardianship Statute is found in article V part 3. *See* Legis. B. 354, 83rd Leg., 2d. Sess. (Neb. 1974) (available at <https://nebraskalegislature.gov/FloorDocs/83/PDF/Slip/LB354.pdf>) (last visited Oct. 23, 2024) (hereinafter “Legislative Bill 354”). This structural separation is mirrored in the Uniform Probate Code (“UPC”), which is the basis for the NPC. *See* Introducer’s Statement of Purpose, Legis. B. 354, Judiciary Committee, 83rd Leg., 1st Sess. (Feb. 21, 1973) (available at <https://www.nebraskalegislature.gov/FloorDocs/83/PDF/SI/LB354.pdf>) (last visited Oct. 23, 2024). In the UPC, guardianship of minors is found in article V part 2, and guardianship of incapacitated persons is found in article V part 3. *See* Unif. Prob. Code (Unif. L. Comm’n 1969) (amended 2019). The comment in § 5-301 of the Uniform Probate Code is also instructive in the instant case, providing that “[w]hile an incapacitated person will typically be an adult, appointment can be made for a minor under this part if the reason for the appointment is an incapacity *other than* the minor’s age.” (emphasis added).

Second, if minors were treated as incapacitated persons by reason of minority, then Nebraska Revised Statutes §§ 30-2605 to 30-2616 would be rendered meaningless. This is not just an inconsistency between two statutes – if minors were by definition incapacitated, then

the entirety of Article V part 2 of the NPC and UPC would be redundant.

Third, while both the Minor Guardianship Statute and the Incapacitated Person Guardianship Statute were created in 1974, *see* Legislative Bill 354, the least restrictive alternative standard was only added to the Incapacitated Person Guardianship Statute in 1993, *see* Legis. B. 782, 93rd Leg., 1st. Sess. (Neb. 1993) (available at <https://nebraskalegislature.gov/FloorDocs/93/PDF/Slip/LB782.pdf>) (last visited Oct. 23, 2024). If the legislature had intended to add the least restrictive alternative standard to the Minor Guardianship Statute, it could have done so then.

The structure and context of the NPC make it clear that guardianships for minors and guardianships for incapacitated persons are distinct cases with separate standards applicable to each.

### C. APPLYING THE LEAST RESTRICTIVE ALTERNATIVE STANDARD TO GUARDIANSHIPS FOR MINORS IS INCONSISTENT WITH STATE LAW.

Applying the least restrictive alternative standard to the Minor Guardianship Statute will not only render the standard inconsistent with the guiding principle of Nebraska family law but also contradicts Supreme Court of Nebraska precedent.

For over a century, this Court has held that “[t]he best interests of the child must always be considered in determining matters of child custody.” *In re Lilly S. v. Kenny S.*, 298 Neb. 306, 321, 903 N.W.2d 651, 663 (2017); *see also*; *In re Interest of Amber G. et al.*, 250 Neb. 973, 982, 554 N.W.2d 142, 149 (1996); *State on behalf of Daphnie F. v. Christina C.*, 310 Neb. 638, 644, 967 N.W.2d 690, 695 (2021) (“the best interests of the child remain the lodestar of child custody disputes”); *State ex rel. Thompson v. Porter*, 78 Neb. 811, 112 N.W. 286, 288 (1907) (“[t]he first query in controversies of [child custody] should always be: What do the best interests of the child require?”). In the instant case, in making its guardianship determination, the trial court looked only to the least

restrictive alternative and stopped its analysis without considering the best interest of the child. *See* Tr. 24-25, 37-39.

The least restrictive alternative standard is not consistent with state law, and the trial court erred with it applied it to the instant case.

### CONCLUSION

For the reasons stated above and in Appellant's brief, this Court should rule in favor of Appellant.

Dated this 28<sup>th</sup> of October, 2024

Respectfully submitted:

By: /s/ Dylan Severino  
Dylan Severino, #27932  
Rose Godinez, #25925  
ACLU of Nebraska Foundation  
134 S. 13<sup>th</sup> Street #1010  
Lincoln, NE 68508  
(402) 476-8091  
dseverino@aclunebraska.org  
rgodinez@aclunebraska.org

### CERTIFICATE OF COMPLIANCE

I, Dylan Severino, hereby certify that this brief was prepared using Microsoft Word Version 2019; the document contains 3,751 words, not including this certification, as relied upon by the word count produced by the software; and complies with the typeface requirements of Neb. Ct. R. App. P. § 2-103.

/s/ Dylan Severino  
Dylan Severino, #27932

# Certificate of Service

I hereby certify that on Monday, October 28, 2024 I provided a true and correct copy of this *Amicus Brief of ACLU* to the following:

Tomas Tomas Jose (Self Represented Litigant) service method: **Certified Mail**

Center for Immigrant and Refugee Advance represented by Roxana Cortes-Mills (26017) service method:  
Electronic Service to **rcortes@ciraconnect.org**

Signature: /s/ SEVERINO, DYLAN C (27932)