No. 21-1868

United States Court of Appeals for the Fourth Circuit

JONATHAN R., *et al.*,

Plaintiffs–Appellants,

v.

JIM JUSTICE, *et al.*,

Defendants–Appellees.

On Appeal from the United States District Court for the Southern District of West Virginia, No. 3:19-cv-710 (Hon. Thomas E. Johnston)

Brief of Amici Curiae Washington Lawyers' Committee for Civil Rights and Urban Affairs, National Association of Counsel for Children, Children's Advocacy Institute, Advokids, Youth Law Center, National Center for Youth Law, Mountain State Justice, and the National Center on Adoption and Permanency in Support of Appellants and Reversal

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

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- Counsel has a continuing duty to update the disclosure statement.

No. 21-01868 Caption: Jonathan R. v. Jim Justice

Pursuant to FRAP 26.1 and Local Rule 26.1,

Washington Lawyers' Committee for Civil Rights and Urban Affairs
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐YES ☑NO

2. Does party/amicus have any parent corporations? ☐YES ☑NO
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Signature: /s/ Tobias Loss-Eaton Date: 11/15/21

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National Association of Counsel for Children
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Children's Advocacy Institute
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

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University of San Diego

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Advokids
(name of party/amicus)

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Counsel for: Amici

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Pursuant to FRAP 26.1 and Local Rule 26.1,

Youth Law Center
(name of party/amicus)

who is an amicus, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

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National Center for Youth Law
(name of party/amicus)

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Counsel for: Amici

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Amici Curiae's Identities, Interests, and Authority to File

The Washington Lawyers' Committee for Civil Rights and Urban Affairs is a nonprofit civil rights organization established to eradicate discrimination and poverty by enforcing civil rights laws through litigation and public policy advocacy in the District of Columbia, Virginia, and Maryland. To advance this mission, the Committee represents some of the most vulnerable persons and populations in the region.

The National Association of Counsel for Children ("NACC"), founded in 1977, is a 501(c)(3) nonprofit child advocacy and membership association dedicated to advancing the civil rights, wellbeing, and opportunities of youth in the child welfare system through access to high-quality legal representation. NACC is a multidisciplinary organization, and its members include child welfare attorneys, judges, and professionals from the fields of medicine, social work, mental health, and education. NACC's work includes federal and state policy advocacy, the Child Welfare Law Specialist attorney certification program, a robust training and technical-assistance arm, and the amicus program. More information can be found at www.naccchildlaw.org.

The Children's Advocacy Institute ("CAI"), founded at the University of San Diego School of Law in 1989, is an academic, research, and advocacy nonprofit organization working to improve outcomes for children and youth, with special emphasis on improving the child protection and foster-care systems and enhancing resources available to youth aging out of care. In its academic component, CAI trains law students and attorneys to be effective child advocates throughout their legal careers. Its Child Advocacy Clinic gives USD Law students clinical opportunities to advocate on behalf of children and youth, and its Dependency Counsel Training Program provides comprehensive training to licensed attorneys engaged in or contemplating Dependency Court practice. CAI's research and advocacy, conducted through its offices in San Diego, Sacramento, and Washington, D.C., seeks to leverage change for children and youth through impact litigation, regulatory, administrative and legislative advocacy, and public education. CAI's efforts are multi-faceted—comprehensively embracing all tools of public interest advocacy to produce better outcomes for children and youth.

Advokids is a California-based nonprofit organization that advocates for the child welfare system to provide the legal rights and protections to which every foster child is entitled under law, including each child's right to safety, security, and a permanent home. Advokids was formed in 1992 and now operates several different programs intended to promote the well-being of foster children and to try to protect from them the additional traumas often inflicted upon foster children by the child welfare system itself. Advokids' programs include a website and a statewide telephone hotline offering information and assistance to anyone concerned about the well-being of a child in California's foster care system, state-bar approved continuing education programs for attorneys on various aspects of child welfare law, educational programs for social workers, foster caregivers, mental health professionals, foster family agencies, and court-appointed special advocates (CASAs) on child welfare law and the social science and neuroscience research on child development, and policy work, which includes filing and participating in amicus briefs on issues that directly affect the rights and well-being of foster children.

The Youth Law Center ("YLC") is a national organization, founded in 1978, that advocates to transform the foster care and juvenile justice systems so that children and youth can thrive. Through legal, legislative, and policy advocacy, YLC works to advance the rights of young people who come into contact with the juvenile justice and child welfare systems and to strengthen the supports available to them so they can transition successfully to adulthood and thrive. YLC believes that young people in foster care must have access to a full range of legal remedies in order to ensure that their rights are protected and that systems can be held accountable to meeting their needs.

The National Center for Youth Law ("NCYL") is a non-profit organization that works to build a future in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. For five decades, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities they need. Among other advocacy tools, NCYL often utilizes litigation to further these goals, and it is important to NCYL that federal courts remain an available avenue for protecting the rights and safety of children.

Mountain State Justice is a non-profit legal services firm dedicated to redressing entrenched and emerging systemic social, political, and economic imbalances of power for underserved West Virginians, through legal advocacy and community empowerment offered regardless of ability to pay.

The National Center on Adoption and Permanency ("NCAP") is a nonprofit organization whose mission is to transform child welfare policy and practice from "child placement" to "family success." NCAP's multidisciplinary team advances this fundamental change by providing research and expertise that enables public and private agencies, organizational leaders, advocacy groups and other professionals to empower, strengthen and support all families.

* * *

All parties have consented to the filing of this brief. No party's counsel authored the brief in whole or in part, no party or party's counsel contributed money intended to fund preparing or submitting the brief, and no person other than *amici*, their members, or their counsel contributed money intended to fund preparing or submitting the brief.

Introduction and Summary of Argument

The district court erred by abstaining under *Younger v. Harris*, 401 U.S. 37 (1971). The Supreme Court has made clear—most recently in *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69 (2013)—that *Younger* creates a narrow exception to the federal courts' vital obligation to exercise their jurisdiction. At its core, this exception simply prevents federal courts from interfering with certain state-court proceedings. Plaintiffs' requested relief, which is directed to the executive branch of the West Virginia state government, would not do so. Affirming the decision below would thus expand *Younger* beyond its proper boundaries—and threaten to close the federal courts' doors to vulnerable people with meritorious claims, like the children in foster care who are plaintiffs here.

I. The district court's order misunderstands *Younger*'s scope and purpose. *Younger* carved out a narrow space from the federal courts' otherwise-unflagging obligation to hear cases within their statutory and constitutional jurisdiction. This is an exceptional doctrine, applied only sparingly to avoid interfering with certain state-court proceedings implicating uniquely state interests. Although *Younger* abstention expanded over

the years after the Supreme Court first recognized it, the Court reined in the doctrine in *Sprint*.

Sprint made clear that *Younger* applies only to three exceptional categories of state cases, and only when the federal plaintiffs' requested relief would directly interfere with those state proceedings. Neither condition is met here. As the plaintiffs explain, this case falls outside the three categories *Sprint* listed. But reversal is independently warranted because the plaintiffs' requested relief—like more case workers for children in foster care, better planning and monitoring, and more agency services—would not interfere with any state-court proceedings. State judges are not responsible for these functions, and plaintiffs do not ask the federal courts to superintend any state-court decisions. Absent such interference, *Younger* abstention is improper—no matter what kind of state proceeding is at issue.

II. Affirming the district court's overbroad application of *Younger* would close the courthouse doors to vulnerable people seeking to vindicate their rights. Children in foster care are disproportionately members of groups that already face discrimination and abuse: Black, Indigenous, and LGBTQ+ children. It is vital that they, and others in their shoes, be

able to bring meritorious claims to the federal courts. The same is true for other vulnerable populations, like people in pretrial detention, whose claims the district court's logic would foreclose.

Argument

I. *Younger* abstention narrowly restricts federal courts from unduly interfering with ongoing state-court proceedings.

The district court erred by abstaining because—whether or not this case implicates *Sprint*'s three exceptional categories—the plaintiffs' requested relief would not interfere with any ongoing state-court proceedings. That relief is directed at the state executive branch, which is responsible for caring for children in foster care; it would not disrupt the state courts' conduct of abuse-and-neglect proceedings.

A "federal court's obligation to hear and decide a case" within its jurisdiction "is virtually unflagging. Parallel state-court proceedings do not detract from that obligation." *Sprint*, 571 U.S. at 77 (cleaned up). Indeed, "there is no doctrine that the availability or even the pendency of state judicial proceedings excludes the federal courts." *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans*, 491 U.S. 350, 373 (1989) (*NOPSI*). Rather, "federal courts ordinarily should entertain and resolve on the merits an action within the scope of a jurisdictional grant, and

should not refuse to decide a case in deference to the States." *Sprint*, 571 U.S. at 73 (cleaned up). That is true even if the case "may well affect" a future or pending "state-court action." *NOPSI*, 491 U.S. at 373.

Thus, while "certain instances" exist where "the prospect of undue interference with state proceedings counsels against federal relief," abstention under *Younger* is proper only if (among other requirements) the state proceeding fits within one of three "exceptional" categories *and* the requested relief would cause "undue interference" with that proceeding. *See Sprint*, 571 U.S. at 72–73.

As the plaintiffs explain, the first condition is not met here: This case does not implicate *Sprint*'s three "exceptional" categories. Opening Br. 20–26. But reversal is also warranted for an independent reason: Whatever type of state proceeding is involved, federal courts should not abstain unless the plaintiffs' requested relief would cause "undue interference." *Sprint*, 571 U.S. at 72. Indeed, the Supreme Court has always explained *Younger*'s purpose in these terms: The doctrine protects "against federal court interference with state court proceedings." *Younger*, 401 U.S. at 43; *accord Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 431 (1982); *Huffman v. Pursue, Ltd.*, 420

U.S. 592, 601–02 & n.16 (1975). As a result, even if the district court were right that this case implicates the three *Sprint* categories, the decision below could not stand unless the plaintiffs' "requested relief would interfere" with ongoing state-court proceedings. *United States v. South Carolina*, 720 F.3d 518, 527 (4th Cir. 2013). And as the plaintiffs observe, that is not the case. Opening Br. 26–28.

The district court concluded that "the practical effects in enforcing an order reforming West Virginia's foster care system would undoubtedly impact the state's circuit courts." JA 241. But "impact" is not the test for abstention. True, the state courts "play an important role" and are "heavily involved in abuse and neglect proceedings." JA 237, 240. But "[a]bstention is not in order simply because a pending state-court proceeding involves the same subject matter." *Sprint*, 571 U.S. at 72. And the district court never explained how the specific relief the plaintiffs seek here would interfere with state-court proceedings themselves—as opposed to the executive-branch functions related to those proceedings.

In fact, no such interference will occur. Although the West Virginia courts are involved in foster-care placements, their specific proceedings and decisions are distinct from the plaintiffs' requested relief. The State

Department of Health and Human Resources (DHHR), an executive-branch agency, is responsible for removing abused or neglected children from their homes. After the department files an abuse-or-neglect petition, a state court determines whether to grant temporary custody to DHHR, *see* W. Va. Code § 49-4-602; whether to "commit the child temporarily to the care, custody, and control of [DHHR], a licensed private child welfare agency, or a suitable" guardian, *id.* § 49-4-604(c)(5); and ultimately whether to terminate parental rights and "commit the child to the permanent sole custody of the nonabusing parent," DHHR, or "a licensed child welfare agency," *id.* § 49-4-604. As part of this process, the court determines "whether the child is abused or neglected," *id.* § 49-4-601, whether "continuation in the home is contrary to the best interests of the child," *see id.* § 49-4-602(a)(4)(A), (b)(1), and whether "there are no alternatives less drastic than removal of the child," *id.* § 49-4-602(b). The court must also conduct periodic hearings "until a permanent placement is achieved." *Id.* § 49-4-608.

The plaintiffs' requested relief is not directed at these state-court proceedings, but at DHHR. And DHHR's role is different. "It is the re-

sponsibility of" DHHR—not the state courts—"to provide care for neglected children who are committed to its care for custody or guardianship." W. Va. Code § 49-2-106; *see id.* § 49-2-101(a). DHHR "may provide this care for children in family homes meeting required standards of certification established and enforced by" DHHR, not the courts. *Id.* § 49-2-106. DHHR, not the courts, "shall establish minimum standards for foster-home care" and investigate each "foster home . . . and its standards of care," *id.* § 49-2-107(a), (d), and "shall visit and inspect every certified foster home as often as is necessary to assure proper care is given to the children," *id.* § 49-2-108. And DHHR, not the courts, "shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform." *Id.* § 49-2-110. Each child welfare agency "shall report to" DHHR, not the courts, about "each child under its control." *Id.* § 49-2-111(b).

In short, the state courts decide who will have custody of each child, when, and for how long, while DHHR is responsible for the actual care of children in its custody. To be sure, the courts have ongoing jurisdiction over these children, and DHHR must "file with the court a copy of the child's case plan." W. Va. Code § 49-4-604(a). But the court's dispositional

options in these cases are strictly limited: dismiss the petition (restoring custody), refer the family to a community agency, return the child home under DHHR's supervision, order terms of supervision, or temporarily or permanently remove the child. *Id.* § 49-4-604(c).

These options do not extend to the kind of systemic relief the plaintiffs seek here, which is directed at DHHR's statutory functions as custodian. For example, the plaintiffs seek an order requiring DHHR to hire more qualified caseworkers, ensure a maximum ratio of children to caseworkers, develop an adequate statewide plan to recruit and retain foster and adoptive homes, ensure that all placements are safe and adequately monitored under federal standards, and provide an adequate array of community-based therapeutic services to children with disabilities. JA 176, 178. States judges are not responsible for these functions, and none of this relief relates to "the way in which West Virginia's Circuit Courts oversee" abuse-and-neglect proceedings. *Contra* JA 236.

Likewise, while the district court suggested that this relief would usurp "decisions that are now in the hands of state courts," JA 240, it identified no court decisions or discretionary functions that would be af-

fected. And none exist. As just noted, state courts do not and cannot address these systemic issues in individual abuse-and-neglect proceedings. *See* Opening Br. 28–30. Thus, the plaintiffs' requested relief would not require the federal courts to review or second-guess any state-court decisions. State courts alone will still grant custody (or not), find that children have (or have not) been abused or neglected, and terminate parental rights (or not). *See* JA 237–38. The plaintiffs' claims seek "not to pinpoint individual cases of noncompliance for federal court intervention, but rather to implement system-wide remedial measures to help cure alleged chronic, widespread failures." *See Tinsley v. McKay*, 156 F. Supp. 3d 1024, 1039 (D. Ariz. 2015) (declining to abstain in a similar foster-care case). The district court's assertion that it would have to ensure that "West Virginia's state courts comply with its mandate," JA 240, was simply mistaken; state judges are not defendants here, and no relief would run to them.

The district court thus failed to distinguish between relief that would affect the *participants* in ongoing judicial proceedings and relief that would interfere with the proceedings themselves. Cases involving pretrial detention illustrate this error. *Younger* abstention does not apply

to claims challenging "the conditions of pretrial detention in state court," *Arevalo v. Hennessy*, 882 F.3d 763, 764 (9th Cir. 2018), like "the legality of pretrial detention without a judicial hearing," *Gerstein v. Pugh*, 420 U.S. 103, 108 n.9 (1975), or a state court's "system of setting bail for indigent misdemeanor arrestees," *ODonnell v. Harris Cnty.*, 892 F.3d 147, 152 (5th Cir. 2018). Although these claims are plainly intertwined with—and may actually affect—criminal prosecutions, abstention is still improper because the relief sought will "not prejudice the conduct of the trial on the merits," *Gerstein*, 420 U.S. at 108 n.9, and "will not require federal intrusion into pre-trial decisions on a case-by-case basis," *ODonnell*, 892 F.3d at 156. This kind of claim is "distinct from the underlying criminal prosecution and would not interfere with it." *Arevalo*, 882 F.3d at 766.

So too here. Just as ordering a jail to hire more guards or provide better training would not interfere with criminal prosecutions—even though criminal defendants are in the jail's custody pending trial—an order requiring DHHR to provide better care for children in its custody would not interfere with abuse-and-neglect proceedings, even though

those proceedings govern whether and how long DHHR will have custody of a child.

Because the plaintiffs' requested relief will not unduly interfere with state-court proceedings, it does not matter that each plaintiff (and each potential class member) is "subject to the continuing jurisdiction of West Virginia's Circuit Courts." JA 236. Abstaining on that basis "would mean that a federal court would always have to abstain on any dispute related to a foster child because the juvenile court has continuing jurisdiction over the child." *M.B. ex rel. Eggemeyer v. Corsi*, No. 2:17-cv-4102-NKL, 2018 WL 327767, at *7 (W.D. Mo. Jan. 8, 2018). This approach would make "a 'mockery of the rule that only exceptional circumstances justify' *Younger* abstention." *Id* (quoting *NOPSI*, 491 U.S. at 368). Indeed, it would mean that no one could challenge systemic rights violations in the foster-care system in federal court. The same would be true for people under criminal prosecution, civilly committed people, and youth defendants who remain subject to state courts' continuing jurisdiction. And a rule that state-court jurisdiction always ousts the federal courts would enable all manner of mischief; states could insulate any number of state actions from federal review just by appointing state

courts to "oversee" them. *Cf.* JA 236. That is not the law, as to children in foster care or otherwise. *NOPSI*, 491 U.S. at 373.

In short, *Younger*'s ultimate touchstone is non-interference. Because the plaintiffs' specific requested relief would not interfere with any state-court proceedings—as opposed to executive branch functions—abstention is improper here. That would remain true even if this case fell within one of *Sprint*'s three "exceptional" categories. Thus, while the district court erred on both points, this Court can reverse on either ground.

II. The district court's broad view of *Younger* would bar the courthouse doors to children in foster care and other vulnerable populations.

A disciplined approach to abstention is especially important in civil-rights cases like this one. The federal courts have historically played a vital role in protecting the constitutional and civil rights of vulnerable plaintiffs. At least since *Ex Parte Young*, 209 U.S. 123 (1908), federal courts have been empowered to enjoin state officials from enforcing unlawful or unconstitutional policies. Applied too broadly, abstention doctrines like *Younger* can thwart that function. *Cf.* Fred O. Smith, Jr., *Abstention in the Time of Ferguson,* 131 Harv. L. Rev. 2283, 2296 (2018)

(describing the abstention doctrine's evolution in the mid-twentieth century to allow federal courts to hear civil-rights claims involving state prosecutions). Restricting *Younger* to its proper sphere is thus essential to ensuring that a range of plaintiffs, like the children here, can vindicate their federal rights.

By contrast, the district court's undisciplined approach to abstention would mean that federal courts "always have to abstain" in cases involving children in foster care and others caught up in related state-court litigation. *See M.B.*, 2018 WL 327767, at *7. That approach thus threatens to harm vulnerable people by closing the courthouse doors to meritorious federal claims. In turn, affirmance will not only prevent thousands of children in West Virginia from vindicating their rights, but also risks harming other vulnerable populations.

Claims like the plaintiffs' seek to reform a system that endangers them. Abstaining here thus risks leaving children in foster care—especially those who already face systemic discrimination—without effective recourse for violations of their federal rights that threaten their health and safety. Many children enter the foster-care system because of neglect

or abuse, only to face neglect or abuse again in the system. *See* Sixto Cancel, *I Will Never Forget That I Could Have Lived With People Who Loved Me*, N.Y. Times (Sept. 16, 2021), https://nyti.ms/30htfr3; Sarah Fathallah & Sarah Sullivan, Think Of Us, *Away From Home: Youth Experiences of Institutional Placements in Foster Care* 40 (July 21, 2021), https://bit.ly/3H6WaPk.

These deficient systems especially harm children of color. Black children are overrepresented in foster-care systems nationwide. Anne E. Casey Found. Kids Count Data Ctr., *Black Children Continue to Be Disproportionately Represented in Foster Care* (Apr. 13, 2020), https://bit.ly/3n5kvNu. Black children also stay in the foster-care system longer. David Crary, *Many Say Now Is the Time to Fight Racial Bias in Foster Care*, Associated Press (Apr. 14, 2021), https://bit.ly/3C8MgJs; *see also* Cancel, *supra* ("Black youths are disproportionately placed in institutions. Just as when I was a child, group homes are being used not as temporary shelters but as long-term placements for foster youths."). In turn, Black children are more likely to bear the brunt of statutory and constitutional violations in the foster-care system.

Moreover, children of color regularly face discrimination in foster care. Crary, *supra*; *see also* Fathallah & Sullivan, *supra*, at 33 ("[O]ther participants, especially youth of color, shared that institutional placements displayed no cultural sensitivity when it came to the hair and skin care needs of the youth."); Fathallah & Sullivan, *supra*, at 43 ("Youth [in institutional foster-care settings] recounted incidences of discrimination based on race and ethnicity and recounted how staff displayed discriminatory behavior towards their peers."). Likewise, LGBTQ+ youth are disproportionality represented in foster care, and overwhelmingly encounter discrimination there. Univ. Md. Sch. of Social Work, *Study Finds Overrepresentation of LGBTQ+ Youth in Midwest Foster Care System*, https://bit.ly/3c5ENjz (last visited Nov. 10. 2021); Youth.Gov, *Child Welfare*, https://bit.ly/3CbjebY (last visited Nov. 10, 2021). Indeed, "100% of LGBTQ youth in group homes report abuse. This suggests that abuse against LGTBQIA+ youth in group care is not just prevalent; it's ubiquitous." Fathallah & Sullivan, *supra*, at 43.

Affirming abstention here will make it harder for these children to raise and pursue claims that their rights are being violated. These claims

run the constitutional and statutory gamut. The children here, for example, bring claims under the First, Ninth, and Fourteenth Amendments, the Adoption Assistance and Child Welfare Act of 1980, the Americans with Disabilities Act, and the Rehabilitation Act. *See* JA 165–73. In other cases, children in foster care have sued state-wide systems under the Medicaid Act, *Tinsley*, 156 F. Supp. at 1026, the Social Security Act, *Sam M. ex rel. Elliott v. Chafee*, 800 F. Supp. 2d 363, 370 (D.R.I. 2011), Title VI of the Civil Rights Act of 1964, *Brian A. ex rel. Brooks v. Sundquist*, 149 F. Supp. 2d 941, 944 (M.D. Tenn. 2000), and the Child Abuse Prevention and Treatment Act, *Marisol A. by Forbes v. Giuliani*, 929 F. Supp. 662, 669 (S.D.N.Y. 1996). Abstention would foreclose all of these serious claims.

As more children enter the foster-care system each year, these issues only become more pressing. In West Virginia alone, the number of children in foster care grew by over 2,000 between 2015 and 2019. U.S. Dep't of Health & Human Servs., *Child Welfare Outcomes Report Data, Children's Bureau*, https://bit.ly/3ks9AM6 (last visited Nov. 10, 2021). The children's claims here reflect deep and troubling issues not only in West Virginia, but across the country.

Nor is foster care the only context where the district court's approach to abstention would prove harmful. As explained above, *Younger* abstention is often litigated in cases involving bail and pretrial detention. *Supra* p. 15. Although other courts correctly recognize that abstention is improper because those claims will not interfere with individual state-court prosecutions, *e.g.*, *Gerstein*, 420 U.S. at 108 n.9; *ODonnell*, 892 F.3d at 156, the district court's logic below would produce the opposite result. After all, state courts are "heavily involved" in criminal prosecutions, including setting bail and ordering pretrial detention. *Cf.* JA 240. Affirmance thus risks foreclosing meritorious claims in other contexts as well, and thus threatens other already-vulnerable populations.

* * *

The district court's decision expanded *Younger* beyond its proper bounds, and thus violated the court's "obligation to hear and decide a case" within its jurisdiction. *Sprint*, 571 U.S. at 77 (cleaned up). This case does not fit within *Sprint*'s three categories, but even if it did, the plaintiffs' requested relief would not interfere with any state-court proceedings. Although a ruling for the plaintiffs here may affect the care received by children subject to abuse-and-neglect proceedings, that is not grounds

for abstention. Without the sort of concrete interference that is *Younger*'s touchstone, "the doctrine of abstention should not weigh heavily against the rights of these children." *See Griffin v. Bd. of Supervisors*, 322 F.2d 332, 348 (4th Cir. 1963) (Bell, J., dissenting), *rev'd*, 377 U.S. 218 (1964).

Conclusion

For these reasons and those in the plaintiffs' briefs, the Court should reverse the decision below.

November 15, 2021

Respectfully submitted,

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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