

In the United States District Court
for the Eastern District of Pennsylvania

AMERICAN CIVIL LIBERTIES UNION, et al.,) Civil No. 98-CV-5591 (LAR)
)
PLAINTIFFS,)
V.)
)
JANET RENO, in her official capacity as)
ATTORNEY GENERAL OF THE UNITED STATES,)
)
DEFENDANT.)

MOTION FOR LEAVE TO FILE A BRIEF AMICUS CURIAE

and

BRIEF OF MEMBERS OF CONGRESS AS AMICI CURIAE,

Senator Dan Coats (ret.), Representative Thomas J. Bliley,
Representative Michael G. Oxley, Representative James C. Greenwood,

IN OPPOSITION TO THE MOTION FOR PRELIMINARY INJUNCTION,

BRUCE A. TAYLOR, Counsel of Record for Amici Curiae
J. ROBERT FLORES, Co-Counsel for Amici Curiae
Chadwicke L. Groover, NLC Legal Fellow, on the brief
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In the United States District Court
for the Eastern District of Pennsylvania

AMERICAN CIVIL LIBERTIES UNION, et al.,) Civil No. 98-CV-5591 (LAR)
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PLAINTIFFS,)
V.) MOTION FOR LEAVE TO FILE
) A BRIEF AMICUS CURIAE, IN
)
JANET RENO, in her official capacity as) OPPOSITION TO THE MOTION
ATTORNEY GENERAL OF THE UNITED STATES,) FOR PRELIMINARY INJUNCTION,
)
DEFENDANT.) ON BEHALF OF THE SPONSORS OF
) THE CHILD ONLINE PROTECTION ACT

)
) AND
) MOTION FOR LEAVE TO ALLOW
) COUNSEL OF RECORD FOR THESE AMICI
) TO PARTICIPATE IN ORAL ARGUMENT

Amici Curiae, the Honorable Dan Coats, former United States Senator, and the Honorable Thomas J. Bliley, Michael G. Oxley, and James C. Greenwood, Members of the United States House of Representatives, by and through their co-counsel for this matter, Bruce A. Taylor and J. Robert Flores, hereby move this Honorable Court for an order permitting these present and former Members of Congress who were the primary sponsors of the Child Online Protection Act of 1998 to file a Brief as amici curiae in opposition to the Plaintiffs' Motion for Preliminary Injunction.

In light of the sponsorship of COPA by these and several other Members of Congress in both the Senate and House of Representatives, and the passage of the Child Online Protection Act by the Congress, and its enactment into law by the signature of the President, these amici have a continuing interest in seeking the benefits that this Act was intended to provide to America's children and wish to proffer their views and concerns to this Court as to the legitimate reach of this new federal law to pornographic "adult" materials that are obscene or harmful to minors. Their perspective on this Act, its tests, defenses, and good faith compliance issues, in addition to the REPORT of the House Committee on Commerce that accompanied H.R. 3783, should be a further help to the Court in its obligations to interpret and authoritatively construe 47 U.S.C. § 231 so as to be constitutionally valid and enforceable as intended by Congress.

Mr. James J. West is a former United States Attorney for the Middle District of Pennsylvania and a member of the bar of this U.S. District Court for the Eastern District of Pennsylvania and has agreed to act as local counsel for the purpose of filing this amicus brief and attendant motions.

Co-counsel Bruce Taylor and J. Robert Flores further request that this motion also serve, if necessary, as a motion for their admission, pro hac vice, for the purpose of filing the instant motion for leave to file the brief, the attached amicus brief, and the motion for permission to provide oral argument as a friend of the court. In this regard, local counsel James J. West specifically joins in these motions for the convenience of the Court.

Bruce A. Taylor has the following admissions to practice: Supreme Courts of Ohio, Arizona, New York, and Virginia; U.S. Supreme Court; U.S. Courts of Appeals (2nd, 4th, 5th, 6th, 9th, D.C.); U.S. District Courts (N.D. Ohio, D. Ariz.). He is currently President and Chief Counsel for the National Law Center for Children and Families, Inc. ("NLC"). Prior to his position at NLC, this attorney was a Senior Trial Attorney in the Child Exploitation and Obscenity Section of the Criminal Division of the United States Department of Justice (1989-94), Assistant Attorney General of the State of Arizona (1989), General Counsel for Citizens for Decency through Law, Inc. (1979-89), Associate with Bertsch, Fludine, Millican & O'Malley, L.P.A., of Cleveland, Ohio (1978-79), and Assistant Director of Law (1977-78), Assistant Police Prosecutor (1975-77), and Law Clerk (1972-75) for the City of Cleveland.

J. Robert Flores has the following admissions to practice: Supreme Courts of New York, Massachusetts, and Virginia; and U.S. Court of Appeals for the Fifth Circuit. He is currently Senior Counsel for the National Law Center for Children and Families, Inc. ("NLC"). Prior to this position, he was Acting Deputy Chief (1995-97) and Senior Trial Attorney for the Child Exploitation and Obscenity Section of the Criminal Division of the United

States Department of Justice (1989-97) and, before that, was an Assistant District Attorney in Manhattan for the District Attorney of the County of New York (1984-89).

For purpose of the motion for leave to participate in oral argument at the hearing on the motion for a preliminary injunction, Bruce A. Taylor further submits that he was privileged to have provided advice and legal information to these amici sponsors of the Child Online Protection Act, as he had to Senators Dan Coats and James Exon during their sponsorship of the Communications Decency Act of 1996. As President and Chief Counsel of the National Law Center for Children and Families, a Virginia non-profit corporation and educational organization under IRS § 501(c)(3), his work involves supporting law enforcement through training, advice, legal research and briefs, and direct trial and appellate assistance to federal, state, and local prosecutors, police agencies, and legislators throughout the United States and in several foreign countries. The NLC focuses on legal and law enforcement issues related to Obscenity, Child Pornography, Matter Harmful to Minors, Public Indecency, Sexually Oriented Businesses, and other legislatively regulated or prohibited forms of unprotected matter and unlawful sexual exploitation or abuse.

This attorney has experience in prosecuting and assisting in the prosecution of hundreds of obscenity, harmful to minors, indecency, child exploitation and abuse, prostitution, and public indecency cases since 1973, including several briefs and an argument before the U.S. Supreme Court and numerous arguments and briefs in various U.S. Courts of Appeals, state Supreme Courts, and other state and federal trial and appellate courts.¹

Having counsel for these amici curiae appear and participate at oral argument at the hearing on the motion for preliminary injunction to answer questions from the Court and provide argument in support of the Act and in explanation of the history, scope, and applicability of the standards of obscenity and harmful to minors would provide a further and independent source of information and legal perspective to aid the Court in the determination of the important issues to be considered in this historic litigation.

Therefore, these amici hereby respectfully move this Court for leave to file their amicus Brief as friends of the Court in opposition to the pending Motion of the Plaintiffs for a Preliminary Injunction, in support of the Motion to Dismiss of the Attorney General of the United States, and in support of the Act of Congress known as "COPA", the Child Online Protection Act of 1998.

Respectfully submitted,

Bruce A. Taylor

J. Robert Flores
Co-Counsel for Amici Curiae

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1 Including: *Flynt v. Ohio*, 451 U.S. 619 (1981); *Turoso v. Cleveland*
Municipal Court, 674 F.2d 486 (6th Cir. 1982); *Polykoff v. Collins*, 816
F.2d 1326 (9th Cir. 1987); *State v. Burgun*, 384 N.E.2d 255 (Ohio, 1978);
State v. Flynt, 407 N.E.2d 15 (Ohio, 1980); *People v. New Horizons, Inc.*,
616 P.2d 106 (Colo. 1980).

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