IN THE SUPREME COURT OF OKLAHOMA

DUSTEN BROWN and THE CHEROKEE NATION Petitioners, vs. THE DISTRICT COURT OF NOWATA COUNTY (HONORABLE CURTIS L. DELAPP) Respondent.	)))))))))))))	Case No. 112116 **Submitted for filing under seal**

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND BRIEF OF THE STATE OF SOUTH CAROLINA AND GOVERNOR NIKKI HALEY AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT AND IN SUPPORT OF THE EMERGENCY REQUEST TO VACATE THE STAY

The State of South Carolina and Governor Nikki Haley respectfully seek leave to participate in this matter as *amicus curiae* and submit this brief in support of Respondent and in support of the emergency request to vacate the stay entered on August 30, 2013.

South Carolina has a compelling interest in ensuring that the final orders of its courts are accorded full faith and credit in Oklahoma, as required by the United States Constitution and other applicable law. South Carolina also has a compelling interest in ensuring the prompt return of a South Carolina child to her adoptive parents and ensuring that Mr. Brown is held accountable for criminally withholding Veronica Rose Capobianco from her parents for nearly one month. In light of the compelling state interests implicated in these proceedings, South Carolina submits that its participation is appropriate and will aid this Court's prompt resolution of this matter.

After nearly four years of contested adoption proceedings in the South Carolina courts and the Supreme Court of the United States, Mr. Brown's parental rights were terminated and Matthew and Melanie Capobianco have been the child's parents since July 31, 2013. Because of Petitioner Brown's willful defiance of the orders of the South Carolina courts requiring him to return V.R.C. to her parents, the State issued a felony warrant for his arrest on August 9, 2013. Mr. Brown has been released on bail and is awaiting extradition, pursuant to a Governor's warrant, to South Carolina, where he will be prosecuted for custodial interference.

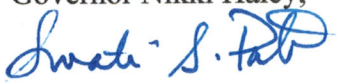
The State understands that on August 30, 2013, Respondent—the District Court of Nowata—registered the final adoption decree establishing that Petitioner's parental rights have been terminated and that V.R.C. is the Capobiancos' legal child. The State respectfully submits that the District Court's order is correct under *Durfee v. Duke*, 375 U.S. 106, 111 (1963). All parties to this action submitted to the jurisdiction of the South Carolina courts years ago, and had a full and fair opportunity to litigate the matter of V.R.C.'s adoption, including South Carolina's jurisdiction to render the final decree. This matter should come to an end, now.

Accordingly, there is no basis for the extraordinary relief Petitioners seek, and under the laws of South Carolina and Oklahoma, the minor child should be immediately returned to the Capobiancos' physical custody and care. For the same reason (among others detailed in the Capobiancos' brief), there is no basis for delaying any portion of the District Court's order directing Petitioners to return V.R.C. to her lawful parents. Moreover, the State understands that counsel for Petitioner Brown announced in open court, on the same day that Petitioner invoked this Court's jurisdiction, that Mr. Brown does not intend to comply with *any* order of the Oklahoma state courts in this matter. We think it is telling that Petitioners treat the laws of this State similarly to the laws of our State. Petitioner chooses to obey only those orders entered in

his favor. The stay should be dissolved immediately, particularly in view of the fact that Petitioners have now established a pattern of willful defiance of court orders, including the orders of the Oklahoma state courts.

Finally, the State respectfully requests this Court to affirm the District Court's decision that the final adoption decree is entitled to full faith and credit in Oklahoma. That expeditious course appears to be prudent and warranted, given the protracted nature of these proceedings, with the welfare of a small child at stake.

Respectfully submitted on behalf of
Governor Nikki Haley,



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