

SC96939

IN THE SUPREME COURT OF THE STATE OF
MISSOURI
EN BANC

IN RE:

ERIC G. ZAHND

MISSOURI BAR NO. 47196

BRIEF OF AMICUS CURIAE
SYNERGY SERVICES, INC.

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TABLE OF CONTENTS

I. INTRODUCTORY STATEMENT	1
Interest of Amicus Curiae	1
II. ARGUMENT	1
1. Allowing prosecutors to speak the truth about child sexual abuse and those who support child sexual abusers serves substantial purposes, including supporting the victim, encouraging other victims to come forward and deterring future crimes of this nature.	1
2. Letters seeking leniency for a convicted child sex abuser are not neutral. Such letter writers take the side of the Defendant in seeking reduced punishment. Extolling the virtues of the child sex abuser, characterizing him as a “caring adult” and pleading that he be given a chance to “prove that he can be a valuable member of his community” is plainly taking his side and implicitly calling into question the veracity of the victim.	4
III. CONCLUSION	6

INTRODUCTORY STATEMENT
INTEREST OF AMICUS CURIAE

Amicus Curiae Synergy Services, Inc. ("Synergy") is a 501(c)(3) organization based in Platte County Missouri. Synergy's mission is to strengthen the individual, family, and community through crisis intervention, shelter, advocacy and education. Synergy provides crisis response through two 24-hour hotlines, shelter for victims of domestic violence and their children, emergency shelter for children and youth from birth through age 18, long-term housing for homeless youth age 16 through 24, and school-based prevention education focused on preventing bullying and dating violence.

Synergy is a comprehensive mental health agency that strives to be trauma informed across all of its programs as well as providing counseling within its shelters and on an out-patient basis. A central focus of the Synergy's work is its Children's Advocacy Center through which it conducts forensic interviews of children and youth in Clay, Platte, and Ray Counties who disclose sexual abuse, severe physical abuse, or who have witnessed a homicide.

ARGUMENT

1. Allowing prosecutors to speak the truth about child sexual abuse and those who support child sexual abusers serves substantial purposes, including

supporting the victim, encouraging other victims to come forward and deterring future crimes of this nature.

The prosecutor can and should openly support victims of child sexual abuse. It is disturbing, but undeniably true that insular communities, whether small Midwestern towns or the movie industry, often circle the wagons around sexual abusers. Support from the prosecutor in the face of this closing of ranks helps the victim cope with the trauma of the abuse, encourages other victims to come forward and breaks the silence that often perpetuates sexual offenses. Society's expectation that sex crime victims will be openly supported has been highlighted by the reaction to the Stanford Rape case, and the #MeToo movement including the recognition of the "Silence Breakers" as the Time Persons of the Year. In the case at bar, the uncontested evidence presented by the victim's mother was that the press release helped her daughter:

Q. And do you believe that that press release had a positive effect on your daughter, the victim of Mr. Paden's crimes?

A. Yes, I think it [the press release] finally validated what she had been saying all of this time. And I don't know that it put to rest, because everybody is ultimately entitled to their opinions and their beliefs regardless of what the truth may be, but from the prosecutor's truth it put it out there in black and white, once and for all, what the truth really was, and allowed the public to read all -- more of the details and in full support of what she had been saying all of this time, and

put an end to some of the untruths that had been spread around. Tr. 687:22-688:11.

The mother also testified, without contradiction, that other victims are more likely to come forward due to Zahnd's actions in this case:

Q. Do you believe that Mr. Zahnd's press release could have a positive effect on other victims of child sexual abuse in coming forward to report those crimes?

A. Yes.

Q. Do you believe that Mr. Zahnd's press release could have a positive effect in deterring the crime of sex crimes against children?

A. Yes. It's less likely to be hidden. Tr. 689:3-11.

It is essential that the community avoid further victimizing children as they find the courage to speak up and disclose abuse and exploitation. The commitment of prosecutors to represent the least powerful victims even in the face of community support for powerful and well-known perpetrators may make the difference as to whether an abused child will tell his/her story and rely on the court for protection and justice.

Finally, Zahnd deterred future sex crimes by demonstrating publicly that those crimes will be punished justly, even if the Defendant has influential friends. (While it is clear to Synergy that Zahnd's press release served other substantial purposes as set forth

in his brief to the Disciplinary Hearing Panel and was not issued for any improper purpose, Synergy has focused on the substantial purposes most directly impacting victims because that is the nature of Synergy's interest in this case).

2. Letters seeking leniency for a convicted child sex abuser are not neutral. Such letter writers take the side of the Defendant in seeking reduced punishment. Extolling the virtues of the child sex abuser, characterizing him as a “caring adult” and pleading that he be given a chance to “prove that he can be a valuable member of his community” is plainly taking his side and implicitly calling into question the veracity of the victim. It should go without saying that caring adults do not sodomize children.

As a survivor of child sexual abuse explained:

"Maintaining delusions about the perpetrator's character requires minimizing the seriousness of rape and blaming the victim. It even involves treating the perpetrator as if he were the victim, providing him compassion and support. Clinging to one's unrealistic perception about the perpetrator's character revictimizes the true victim. When people cling to their beliefs about a perpetrator, they put society at risk. They send the message that rape is not a big deal. Simply put, moral people don't commit rape. Believing otherwise hurts victims and emboldens perpetrators. One of the most dangerous aspects of rape culture is the inability and unwillingness of people to look beyond the perpetrator's personal branding and self-promotion. It's time to realize that our

impressions of people should change when we are presented with more information. If you think someone is a person of stellar character, it is time to change your opinion after he is convicted of sexual assault." Dani Bostick, Brock Turner's Many Letters of Support Reveal a Disturbing Truth about Rape Culture, The Huffington Post, TheHuffingtonPost.com, 11 June 2016 (Last accessed 16 Oct. 2017).

Under these circumstances, Zahnd's statement that, the letter-writers "appear[ed] to choose the side of a child molester over the child he repeatedly abused" was an undeniably true statement. Assistant Prosecutor Myles Perry essentially stated the same truth when he said: "The defendant unleashed this monster and it won't stop. He started it. He fed it lies. And the community that surrounded [VICTIM] and him, strengthened it through willful ignorance; perhaps because they would rather see a young child consumed by it than to face the truth themselves....Instead, they drove a girl deserving of every kindness they could extend, right out of their own town." Likewise, it clearly appeared to the victim that the letter-writers had chosen the Defendant's side and not hers. She said, "To say you support someone who has done this sort of thing makes me wonder how some would react if a son/daughter told you they were a victim of these behaviors. Would you sign a petition then? Would you write letters of support still? I have little faith some would cease support of these acts, even if it was their own flesh and blood."

The Kansas City Star also viewed the letter writers as taking sides. Reporter Glen Rice wrote, without benefit of Zahnd's press release, "On one side there has been Paden, backed by a contingent of supporters that has included family, church elders, the former bank president and other prominent residents. On the other side was the victim, now 18, who said this week that although she has received some strong words of support, she largely has been ostracized and even been declared a liar by some in the community where she also has lived her entire life. All she did was tell — and much of the community turned its back on her." ("Favored son's decade-long sexual abuse of girl divides small Missouri town," Kansas City Star, October 30, 2015).

Zahnd's accurate description of the support that the letter-writers gave to a child sex abuser was not "inflammatory," it was simply true. Zahnd, the victim and the public have a right to the truth.

CONCLUSION

The Board of Directors, 150 staff members of Synergy, and especially the thousands of clients who depend upon Synergy each year urge the court to not take disciplinary action against the Respondent. It is of critical importance that we instead encourage and support our prosecutors to speak the truth about child sexual abuse. Permitting prosecutors to speak such truths about those who support child sexual abusers serves substantial public purposes, including supporting the victim, encouraging other

victims to come forward and deterring future crimes of this nature. Dismissal of disciplinary proceedings in this case would support such purposes.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March 2018, a copy of the Brief of Amicus Curiae Synergy Services, Inc., is being served upon all counsel of record through the Missouri Supreme Court electronic filing system pursuant to rule 103.08.

/s/ Timothy Laycock

Timothy Laycock

CERTIFICATION: RULE 84.06(C)

I certify to the best of my knowledge, information and belief that this brief:

1. Includes the information required by rule 55.03;
2. Complies with the limitations contained in Rule 84.06(b); and
3. Contains 1,765 words according to Microsoft Word, which is the word processing system used to prepare this brief.

/s/ Timothy Laycock

Timothy Laycock