

***United States Court of Appeals***  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

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January 17, 2022

No. 21-51083 E.T. v. Paxton  
USDC No. 1:21-CV-717

Counsel:

The court has directed amici curiae the Texas Pediatric Society and the American Academy of Pediatrics ("AAP") to explain apparent contradictions between the brief filed on January 13 and the AAP's own website. Statements in the brief also appear to contradict the sources cited in its footnotes. These contradictions include but are not limited to the following:

- The brief (at 7) asserts: "Universal school masking policies substantially reduce the risk of death and serious illness among Texas's school-age population[.]" But the AAP's website says this: "Among states reporting, children were 0.00%-0.27% of all COVID-19 deaths, and 5 states reported zero child deaths. In states reporting, 0.00%-0.02% of all child COVID-19 cases resulted in death." <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/>.
- The brief asserts (at 3) that it is proven "beyond any doubt" that "masks do not harm children." But the AAP's website says this is an open question and that doctors cannot yet identify the long-term effects of masking on children. *Compare, e.g.,* Br. at 22 (asserting that "the scientific evidence squarely refutes" the "false premise that masks harm children"), *with* <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/> ("It is important to recognize there are immediate effects of the pandemic on children's health, but importantly we need to identify and address the long-

lasting impacts on the physical, mental, and social well-being of this generation of children and youth.”).

- The brief asserts (at 22 & n.49) the “scientific evidence squarely refutes” the concern that masking might “impede social speech and development.” But the sources cited for that proposition say it is unreasonable at this stage to declare scientific consensus. Compare Br. at 22 (masking “does not meaningfully impede social and speech development”), with AAP, *Do Masks Delay Speech and Language Development?*, <https://bit.ly/3B3c8GH> [cited at Br. 22 n.49] (“there is no known evidence that use of face masks interferes with speech and language development or social communication” and “there are no known studies that use of a face mask negatively impacts a child’s speech and language development”), and Ashley L. Ruba & Seth D. Pollack, *Children’s emotion inferences from masked faces: Implications for social interactions during COVID-19*, <https://bit.ly/2ZJk9Tv> [cited at Br. 22 n.49] (it is “uncertain” how children “infer emotions from facial configurations ... when part of the face is occluded by a mask,” and “there may be some loss of emotional information due to mask wearing”).

Amici shall file a response no later than 5:00 pm on Wednesday, January 19, 2022, to explain each statement in the brief that contradicts (1) sources cited in the amici brief and (2) information on the amici’s own websites.

Sincerely,

LYLE W. CAYCE, Clerk



By: Shirley M. Engelhardt, Deputy Clerk  
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cc:

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