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America's Future Files Amicus Brief To Protect Children

Florida – September 29, 2023 – America's Future, Inc., a national leader in the fight to preserve individual rights, promote American values and traditions, and protect the nation's Constitutional Republic, announced that it filed an [Amicus brief](#) with the United States Court of Appeals for the Fifth Circuit in *Free Speech Coalition, Inc. (FSC), et al. v Angela Colmenero, Attorney General, State of Texas Dkt. 23-50627*. The brief was filed on September 25, 2023, with five other nonprofits in support of the State of Texas in its pursuit to protect children.

As the brief explains, Texas enacted H.B. 1181 on June 12, 2023, "requiring companies that produce or distribute pornographic material that is harmful to minors to have age-verification capability to ensure that the companies did not distribute the material to minors." Upon the bill becoming law, FSC sued to stop Texas from enforcing the law based on First Amendment speech and expression grounds.

As background, although pornographic content is "speech," it is considered obscene and therefore falls outside the scope of First Amendment speech protections. The Supreme Court of the United States established four well-defined exceptions to free speech in [Chaplinsky v New Hampshire \(1942\)](#), "...These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words." If speech falls into one of the four exceptions, government may regulate it; however, to pass constitutional muster, regulations must be narrowly tailored and use the least restrictive means available.

In this case, the district court issued an injunction stopping Texas from enforcing its law against companies owning pornography websites because the court viewed Texas as having not narrowly tailored its law because 1) the law covers at least some material that might not be "obscene," and 2) it might inadvertently restrict content legally provided to adults. The court also decided that requiring pornographic website companies to verify the actual age of its users is "not the least restrictive means available" to protect children against accessing obscene materials.

Although not discussed expressly by the lower court in this case, the brief explains that the “prevailing judicial attitude is that states have no authority to protect public morality in the area of obscenity.”

“A moral, decent society protects the innocence of children at all times, under all conditions and circumstances,” said Mary O’Neill, Executive Director of America’s Future. “We urge the Fifth Circuit to vacate the lower court injunction and allow Texas to protect children against the corrosive influence of pornography. There can be no other decision.”

To read more details about this filing, along with other briefs filed by America’s Future, please visit our Law & Policy page on our website at www.AmericasFuture.net.

ABOUT AMERICA’S FUTURE, INC.

Founded in 1946, America’s Future, Inc. is a 501(c)(3) nonprofit organization committed to protecting the individual rights of every American and our Judeo-Christian values that make America exceptional. We do our work through educational and informational initiatives, strategic partnerships, communications, and networking opportunities that empower Americans to get involved in the fight to preserve the American way of life, now and for generations to come. For information, visit www.AmericasFuture.net.