

No. 13-15023
IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DONALD WELCH, et al.,

Plaintiffs and Appellees,

v.

EDMUND G. BROWN JR., Governor of the
State of California, in his official capacity, et al.,

Defendants and Appellants,

On Appeal from the United States District Court
for the Eastern District of California
(District Court No. 2:12-cv-02484-WB-KJN)

***AMICUS CURIAE* BRIEF OF PARENTS AND FRIENDS OF EX-GAYS &**
GAYS (PFOX) IN SUPPORT OF PLAINTIFFS AND APPELLEES,
SUPPORTING AFFIRMANCE

Dean R. Broyles, Bar No. 179535
THE NATIONAL CENTER FOR LAW & POLICY
539 West Grand Avenue Escondido, California 92025
(760) 747-4529
dbroyles@nclplaw.org
Attorney for Amicus Curiae Parents and Friends of Ex-Gays & Gays

FRAP RULE 26.1 DISCLOSURE STATEMENT

Amicus Curiae, Parents and Friends of Ex-Gays & Gays & Gays (PFOX) has not issued any shares to the public, and has no parent company, subsidiary, or affiliate that has issued shares to the public. Thus, no publicly held company can hold more than 10% of stock.

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U.S. Department of Education's former Assistant Secretary of Safe and Drug Free Schools Kevin Jennings agrees on June 8, 2011 that ex-gays should not be discriminated against during outreach efforts for students with unwanted same-sex ATTRactions (http://www.prnewswire.com/newsreleases/departing-safe-schools-czar-met-with-pfoxto-discuss-ex-gays-123447044.html).....	4

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus Parents and Friends of Ex-Gays & Gays (“PFOX”) is a national non-profit organization that has supported, since its inception, many thousands of families of individuals with unwanted same-sex attraction who have made the personal decision to leave homosexuality. PFOX advocates for the ex-gay community and educates the public about sexual orientation. PFOX appears as amicus to address the purported immutability of homosexuality, which is relevant to whether this court should strike down SB 1172, providing individuals with the freedom to access to mental health care services to address unwanted same-sex attraction. PFOX affirms that sexual orientation is a transient, personal characteristic, and that individuals can and do change their sexual orientation.

STATEMENT OF COMPLIANCE OF RULE 29(c)(5)

In compliance with Rule 29(c)(5) of the Federal Rules of Appellate Procedure, this amicus curiae brief is submitted with the consent of all parties to this appeal. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution to the preparation or submission of this brief.

SUMMARY OF ARGUMENT

SB 1172 unconstitutionally prohibits a “mental health provider” from engaging in “sexual orientation change efforts with a patient under 18 years of

age” under all circumstances. In adopting SB 1172, the California legislature assumed two “facts” which are not true: (1) that same-sex attraction is an immutable characteristic, and, (2) that sexual orientation change efforts are harmful.

To the contrary, this brief confirms the growing recognition of the ex-gay community by the courts, government bodies, and business entities and presents the real life, personal stories of four individuals who have successfully done exactly what SB 1172 would forbid young Californians to do with the important assistance of health care professionals: choose to change their orientation and live in opposite-sex relationships despite having formerly struggled with unwanted same-sex attraction. These stories demonstrate that, in fact, sexual orientation is not immutable—either in the sense that it is a trait determined solely by “accident of birth” or in the sense that it cannot be changed—but is a transient, personal characteristic that can and does change. Individuals seeking to change their unwanted same-sex attraction must not be barred by the state from obtaining the assistance of health care professionals and counselors.

The issue is important because a faulty finding that sexual orientation is immutable could lead this Court to improperly uphold SB 1172, which would coercively deny thousands of Californians who are struggling with unwanted same-sex attraction the health care support they need and deserve, and to which

they clearly have a legal rights, pursuant to the freedom of speech and the free exercise of religion.

This brief does not detail the extensive medical and scientific evidence corroborating that sexual orientation is changeable and mutable. Rather, this brief personalizes the scientific and medical evidence through biographical stories representing the actual experiences of many thousands of ex-gays.

ARGUMENT

Far from being an immutable characteristic¹ determined at birth like race or gender, sexual orientation is a complex and amorphous phenomenon that defies consistent and uniform definition. The evidence embodied in this brief adds to the scholarly record to show that, however defined, sexual orientation can shift over time and does shift for a significant number of people. Indeed, many individuals freely choose to change their sexual orientation. Thus, while the nature and determinants of sexual orientation are not fully understood, sexual orientation is ***mutable*** for purposes of Equal Protection analysis and in fact, as it is not

¹ This Court has squarely held that “homosexuals do not constitute a suspect or quasi-suspect class entitled to greater than rational basis scrutiny.” *High Tech Gays v. Defense Indus. Sec. Clearance Office*, 895 F.2d 563, 574 (9th Cir. 1990). Specifically, this Court held that that suspect or quasi-suspect classification requires a showing that a group (1) has suffered a history of discrimination, (2) is defined by an ***immutable characteristic***, and (3) is politically powerless, and that gays and lesbians do not satisfy the second and third requirements. *Id.* at 573-74 (emphasis added).

“determined solely by accident of birth.” *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973) (plurality).

I. GOVERNMENT AUTHORITIES AND OTHER ORGANIZATIONS RECOGNIZE EX-GAYS AS A GROUP, WHICH REFUTES THE VIEW THAT SEXUAL ORIENTATION IS FIXED AND IMMUTABLE.

In addition to the compelling personal stories of ex-gays discussed below, a growing number of governmental authorities and other organizations recognize the existence of ex-gays; that is, that there are individuals who have successfully changed their sexual orientation and are now living as heterosexuals even though they once lived as homosexuals.

In *PFOX v. Government of the District Office of Human Rights*, No. 2008 CA 003662, slip. op. at 12 (D.C. June 26, 2009), the District of Columbia Superior Court ordered the D.C. Office of Human Rights to recognize ex-gays as a protected class for purposes of sexual orientation nondiscrimination (<http://pfox.org/Court-Rules-Sexual-OrientationLaws-Include-Former-Homosexuals.html>).

Likewise, Kevin Jennings, former Assistant Secretary of Safe and Drug Free Schools, U.S. Department of Education, agreed in 2010 that ex-gays should not be discriminated against during outreach efforts for students with unwanted same-sex attractions (<http://www.prnewswire.com/newsreleases/departing-safe-schools-czar-met-with-pfoxto-discuss-ex-gays-123447044.html>).

And in 2011, the superintendent of Montgomery County, Maryland public schools, the 17th largest school district in the United States, acknowledged the contributions of an ex-gay representative who served on the district's Citizens Advisory Committee for Family Life and Human Development (<http://pfox-exgays.blogspot.com/2011/10/letterposted.html>).

On December 28, 2012, PepsiCo, a Fortune 500 company, by and through its legal counsel, acknowledged in a written legal opinion memorandum that its workplace policy against sexual orientation discrimination includes non-discrimination against former homosexuals as a protected class (<http://pfox.org/CivilRights.pdf>). And every year, the NEA's officially recognized Ex-Gay Educators Caucus participates in and hosts a booth at the National Education Association's conference (<http://nea-exgay.org/about/>).

II. THE LIFE STORIES OF THOUSANDS OF EX-GAYS EVIDENCES CONCLUSIVELY THAT SEXUAL ORIENTATION IS NOT AN IMMUTABLE CHARACTERISTIC.

Any assertion that homosexuality is immutable is perhaps best disputed by the existence of a multitude of organizations in the United States and around the world who, like Amicus, have helped thousands of men and women leave unwanted homosexuality, change their orientation, and live heterosexual lives.²

² In addition to Amicus, a partial list of the other organizations who in the United States and around the world provide assistance to those desiring to change their

Below are the stories of four individuals, two men and two women, each of whom represents many thousands of others who have successfully made this transition. The fact that there are well-adjusted ex-gays clearly demonstrates that sexual orientation is not an immutable characteristic.

A. Richard Cohen, M.A.'s Story

Richard Cohen, M.A., is an ex-gay who is now married with 3 children. He struggled for much of his life with unwanted same-sex attraction. Richard is the founder of the International Healing Foundation (IHF) and the author of *Coming Out Straight*, *Gay Children Straight Parents*, *Let's Talk About Sex*, and *Alfie's Home*. Richard's journey is found at www.comingoutloved.com/Richard-Cohens-Story. Following are excerpts from his story.

From middle school, I began to experience same-sex attractions. . . .

orientation is as follows: Courage (www.couragerc.net); The German Institute for Youth and Society (www.dijg.de); Homosexual Anonymous (www.ha-fs.org); International Healing Foundation (www.comingoutloved.com); Jews Offering New Alternatives for Healing, Inc. (<http://jonahweb.org>); National Association For Research & Therapy of Homosexuality (NARTH) (www.narth.com); Restored Hope Network(www.restoredhopenetwork.com); Voices of Change (www.voices-of-change.org); Witness Freedom Ministries (<http://www.witnessfortheworld.org>); Parakaleo (www.parakaleo.co.uk); People Can Change (<http://www.peoplecanchange.com>); Positive Alternatives to Homosexuality (PATH) (<http://www.pathinfo.org>); True Freedom Trust (<http://www.truefreedomtrust.co.uk>); VENSER (<http://www.venser.org>); Regeneration Ministries (<http://www.regenerationministries.org>).

. . . My same-sex desires got stronger with each passing year. I had more sexual experiences with school friends. For them it was a novelty, but for me it was a growing obsession. At the same time, I tried to act “normal,” so I had girlfriends. But this growing obsession for a man continued to haunt me.

. . . .

. . . In my first year of college, I had several boyfriends, each lasting several months.

After one visit home, my father wrote a letter that hurt me deeply. At the same time, I felt suffocated by my current boyfriend, Mike. Besides all that, my schoolwork was overwhelming. I decided to take a bottle of Bufferin and end it all. However, I woke up in the middle of the morning sick as a dog, and still alive. I called my sister, who lived nearby. She came over and took me to the emergency room at the hospital where they pumped my stomach and stabilized my condition.

I recovered, continued therapy, went back to school, ended my relationship with Mike, changed my major to theater, and felt a bit more hopeful. In my second year of school, I met Tim, an art major. We would become lovers for the next three years.

. . . .

. . . Since I loved Tim, I wanted to see why he loved . . . Jesus so much. For the first time in my life, I began reading the New Testament. As part of my Jewish upbringing, I was both bar-mitzvahed and confirmed, studying only the Old Testament.

I had always been on a spiritual quest, trying to find the meaning and purpose of life. I tried so many kinds of faiths and ways: Judaism, Buddhism, and therapies. Then I met Jesus. He was a remarkable individual. In fact, he was the kind of man I had always wanted to be myself. What I admired in him was that his thoughts, feelings, words, and deeds were one. He was a congruent man, the same inside as he was on the outside. He spoke of forgiveness and God's grace. These were new concepts for me. I wanted to be like him. This began my journey as a Christian. . . .

More and more, Tim and I knew that homosexuality was not compatible with God's Word, so we eliminated the physical part of our relationship

In 1982, Jae Sook and I married The first few months were wonderful. I told her about what I thought was my homosexual past. Then the problem resurfaced. I felt so much rage toward my wife. I projected onto Jae Sook all the pent-up hostility I had previously felt toward my mother.

. . . At home, Dr. Jekyll turned into Mr. Hyde, a rageaholic. I had become what I vowed I would never be—just like my father. My wife soon became pregnant with our first child. I knew I must begin therapy again. So, in May 1983, while living in New York City, I went to see a noted psychologist. For one year, I attended weekly individual and group sessions.

. . . .

Slowly, my heart began to heal as I grieved the effects of the sexual abuse [from my youth] However, there was still a deep wound in the pit of my soul. We had had a second child during all this. Jessica was a beautiful girl.

. . . .

. . . I found a . . . friend who was willing to help me heal the homo-emotional wounds of my past. He himself was quite stable and comfortable in his masculinity. . . .

. . . In that instant, the connection between my childhood abuser and I was cut, and I became free for the first time in my life. With that sense of freedom, I sobbed for about an hour in [my friend] David's arms. It was such a release and relief to know that I wasn't responsible for what had happened and that God had forgiven me. In those moments of release, I found my freedom from same-sex desires. Cutting this neurological connection to the sexual desires freed me from thirty years of relentless pain and an endless pursuit of men.

. . . .

At the same time, I began graduate school to obtain my master's degree in counseling psychology. After graduation . . . I founded the International Healing Foundation. My vision was to establish healing centers throughout the world to help men, women, and children to experience their value as children of God. This is still my vision, as we continue our journey.

I began to give public presentations on the process of transitioning from homosexuality to heterosexuality. I thought that, because of my heart toward the homosexual community, they would see that I was not their enemy, but just presenting another possibility for those who desire to change. I was naive. We received death threats at our home and at my office! We received obscene telephone calls at home with angry, venomous words of threat and accusation. The Gay and Lesbian Task Force of the mayor's office in Seattle requested that the American Red Cross fire me from my position as an HIV/AIDS educator. Many in the homosexual community have felt threatened by my work. I understand their fears and their pain.

Over the past 21 years, I have traveled extensively throughout the States, giving presentations about the healing of homosexuality on college and university campuses, in churches, in mental health institutions, at therapeutic conferences, and on TV and the radio.

Another blessing occurred 15 years ago. God gave us a precious son, Alfie. He came on the foundation of our (God's) battles and victories. Now, Jae Sook and I and our three children are growing more deeply in love.

I love God with all my heart, mind, and soul. I live to end His suffering and pain. I pray the understanding of same-sex attractions and the treatment plan for recovery that I am about to share is a blessing to you and those whose lives you will touch. I have learned over the past twelve years of counseling hundreds of men, women, and adolescents, and working with thousands of people in healing seminars around the world, 13 that no matter what issue or issues we

are facing in our lives, our wounds all originate from the same sources. . . . 3

B. Alan Medinger's Story

Alan Medinger is an ex-gay who, after coming out of the homosexual lifestyle twenty five years ago, was married with two daughters and six grandchildren. Alan, who is now deceased, founded Regeneration and authored Growth into Manhood. Alan's journey is found at www.peoplecanchange.com/stories/alan.php. Following are excerpts from his story.

My journey into homosexuality fits the same pattern that I have seen over and over again in many other men I have worked with. I was an unplanned child, born to parents who would have preferred a girl. My older brother was more athletic and generally fit the "all boy" model far better than I, and somehow, he became Dad's and I became Mom's.

. . . My father was subject to severe depression, so severe that he was under psychiatric care for many years, and on a few occasions had to be hospitalized. He could barely cope with life, much less be the husband and father that we needed him to be. In his bad times, he drank heavily and he and my mother fought verbally quite often.

My mother's life was difficult, and to a limited extent I became her comfort and confidant. I certainly identified with her more than with my father.

. . . .

³ www.comingoutloved.com/Richard-Cohens-Story.

I also retreated into a world of fantasy, sexual and otherwise. It became my secure retreat from the pain of life. In a typical fantasy I would be a boy hero leading men into battle, and then when the fighting was over, the men would use me sexually. I both longed for my own manhood and for the manhood of other men.

. . . .

Eventually, these longings for male contact turned sexual. A strong aggressive neighbor boy who was about a year older than I, when he found out I was more than willing to take care of him sexually, was delighted to let me do so. Although my fears of being found out limited my activity, I was homosexually active with other boys from about age 13 through high school.

My sexual activities stopped when I went to college. . . . I believe 15 that my craving for male contact was at least partially satisfied through all of the activities that I had with my fraternity brothers.

Still, the direction of my sexual desires never changed and my fantasies abated very little. Although I dated some girls, there was never any doubt that my overwhelming desire was for a man.

I was blessed to grow up in a time and culture in which there was no gay alternative lifestyle out there calling me into it. . . . Like so many homosexually oriented men of that time, I would get a job, marry, have children and cope the best I could.

That's exactly what happened. Willa Benson had been my friend from elementary school days. We dated through high school, off and on during college, and two years after college we were married. I told Willa nothing of my homosexual desires

The first years of marriage went well. We had two daughters and I started to move up in the business world. We were active in our little neighborhood church, and we led an active social life. But gradually, the pressures of career and family started to build up on me, and at the same time a faulty thyroid gave Willa some emotional problems. My response was to retreat into my old means of finding

comfort; homosexual fantasy and pornography, and five years into the marriage, sex with other men.

. . . .

For ten years I led the classic double life. Successful in business, vicepresident and treasurer of a prestigious Baltimore company, a pillar of my local church. The front was masterfully constructed and maintained. In reality, my life was out of control and my marriage had become a sham. I was drinking heavily, and turned much of my guilt on Willa. We fought frequently. For the last two years of my homosexual activity, I was unable to function sexually in the marriage.

Although I believed in God and had an intellectual acceptance of most of the basics of my religion, my faith seemed to have no impact on my life. I prayed routinely and I did pray that I would be able to stop my homosexual behavior, but I was never aware of any of my prayers being answered. I suppose I prayed the way I did most things, out of duty.

I never justified what I was doing, but I felt powerless to stop it. Gradually sinking into a fatalistic attitude, I saw my life as being on a downward spiral which eventually would cost me my family, my job, maybe even my life, and there was nothing I could do about it.

But God could. Two things happened. Willa, searching for help, got herself into a prayer group. She did not tell them of the exact nature of our problems, but they started praying for me and for our marriage.

Not long after this, a friend at work had a profound religious conversion. As Jim tried to explain to me what had happened, I became certain that he had had a true spiritual experience. Somehow I knew that I could too

But things were desperate enough that after six or seven weeks of agonizing, on Tuesday, November 26, 1974, I went to an interdenominational meeting with Jim. He didn't know my problem, nor did anyone there. At some point during the evening, I prayed

quietly, “God, I give up. My life is a total mess. I can’t handle it any more. I don’t care what You do; you take over.” And He did.

Within a few days, I knew that some profound changes had taken place in me. First of all, I fell head over heels in love with Willa and I desired her physically. My homosexual fantasies that had almost never left me were gone. And most important of all, I knew that Jesus was real, that He loved me, and I was starting to love Him.

A few weeks later, I told Willa the whole truth about my life. . . . Being able to trust me and receive my love came very slowly. A part of the new start in life that we were both given was the birth of our son, Stephen, 18 months after my conversion.

. . . Today, I believe that my need for male friendships are [sic] as normal and healthy as any man’s.

. . . .

This process took years, but today I am confident in and at total peace with my manhood.

. . . .

Although not too many people experience change the way I did, everything that happened to me—being set free to love, desexualizing my unmet emotional needs, breaking the power of my addiction, having the deep needs of 19 my heart for masculine love met by Jesus, and growing into manhood—can happen to any man whose heart is ready to overcome homosexuality. I know this because I have seen it happen hundreds of times.

. . . Our two daughters have grown up, married and provided us with six wonderful grandchildren. Steve, our little child of the promise, grew to be a strong man, was recently married and is teaching school.

Today, 25 years later, if God were to bring me the best looking man in the world, and say, “Here, you can do whatever you want with him.” My response would be, “No thank you, I’m not interested.” . . .⁴

C. Kristin Johnson Tremba, M.Div.’s Story

Kristin Johnson Tremba is a former homosexual who is now married with a child. Kristin holds a Master of Arts degree from Columbia University, as well as a Master of Divinity degree from Gordon-Conwell Theological Seminary. She is the author of *Sexual Wholeness in a Broken World*. Her journey is found at http://pfox.org/Grove_City_College.pdf. Following are excerpts from her story.

While my sister was attending [college], I was going to a small liberal arts college in Indiana. My freshman year I had high hopes to have fun at school, make lots of friends find my “calling” in life, and then get married. Instead, I found something unexpected and frightening happening: I was falling in love with my freshman roommate. The feelings I felt for her were the feelings I had hoped to have felt for the guys I had dated in high school. I was overwhelmed and confused and had nowhere to go. . . .

. . . .

. . . My roommate and I lived together all throughout college and one year after college, but we never talked about our feelings for one another or engaged in any physical sexual relationship. Regardless, we were a couple. We were emotionally dependent upon each other (we viewed other people as a threat to our relationship, preferred to spend time alone and were frustrated when this didn’t happen, became angry or depressed when the other withdrew slightly, lost interest in other friendships, and experienced romantic and sexual feelings for the other) . . .

⁴ www.peoplecanchange.com/stories/alan.php.

After college, I entered the Peace Corps, which required me to leave my roommate. This was not easy for either of us. However, on my flight to Albania, I prayed that God would bring a man into my life. Thus began my search for love and the hopes to marry again. I was 23 years old. In Albania, I found myself having sexual feelings for both men and a particular woman as I served as a volunteer. I lost my virginity and became more promiscuous with men.

. . . .

It was not soon after this that I fell into a sexual relationship with a woman who was openly gay, and who pursued me. In my loneliness and neediness for intimacy, I gave in to her and found being with her to meet a deep emotional need inside of me. This relationship continued until I moved to a different state for work. When I heard that she would be coming to live with me, I was euphoric and ready to come “out” of the closet, so to speak. I began telling friends, and I even attended a gay-friendly church, but it all seemed so foreign and unsatisfying

. . . .

[Ultimately,] God taught me that sexual sin was my attempt to meet legitimate emotional needs in sexually illegitimate ways. He showed me that there were some emotional needs that had not been met in my family relationships growing up, there were some wounds, and so I was attempting to meet these needs and cover these wounds in sexual relationships as an adult. He taught me that there were also things I was born with: a sin nature, a particular temperament, various weaknesses, and a negative body image and negative view of my femininity. He taught me that even though I did not choose all my circumstances and struggles, I could choose to overcome them. I could choose to let God change my life.

. . . .

People ask me, “Do you still struggle with same-sex attraction?” My answer is no, I don’t, but I still struggle with worry and doubt and lots of other things⁵

D. Brenna Kate Simonds’ Story

Brenna Kate Simonds is a former homosexual who has been married to her husband for eight years. She is the Director of an organization based in Boston, Massachusetts that helps men and women find freedom in their struggle with same-sex attraction. Brenna’s journey is found at

<http://pfoxexgays.blogspot.com/2013/01/letting-others-help-onjourney.html>.

Following are excerpts from her story.

I was born in 1975, the second of two girls. My mother was an alcoholic who stayed home with me and my sister while my father worked long hours. . . . I’d quickly zero in on any themes of abandonment in everything I heard, and I carried those feelings of fear with me into my adulthood.

Eventually, my parents divorced I began experimenting sexually with girls when I was a young age and this continued until, as a freshman in high school, I found myself physically attracted to my best friend. Before our relationship became physical, it was already emotionally unhealthy. When we began to act out our attraction physically, I became totally dependent on her for my self-worth.

. . . .

At college, it was much easier to be gay. My sexuality was affirmed and accepted. My girlfriend of three-and-a-half years and I broke up during my first semester, but within a year, I met a much older woman, and we began dating. I dropped out of college and

⁵ http://pfox.org/Grove_City_College.pdf.

moved across the country to live with her. During the time we lived together, I became even more involved with the gay community. I spoke out for gay rights and further embraced my lesbian identity.

. . . .

After three months, [my girlfriend] said to me, “Listen—you can’t be a Christian and be gay. The Bible says you must either be hot or cold—one or the other, but not lukewarm.” She was quoting Scripture to me! With that, she ended our relationship.

After that, I just threw my arms up into the air, saying “Fine, God! I don’t want to live like this. Please - take these desires away from me.” And in many ways, He did. My attraction to women lessened greatly.

However, I soon realized that the events and circumstances of my life that led me in the direction of the lesbian lifestyle had not changed. I knew I needed help.

. . . I somehow got my hands on a copy of “Pursuing Sexual Wholeness” by Andrew Comiskey. I just devoured that 25 book and applied many of the principles presented to my life. I also opened up to my Christian friends about my struggle and asked for accountability. I committed to a few women that when I faced moments of temptation, I would call them, so that they could check in with me later and pray for me.

. . . .

I met a man through a ministry I was involved with, and he was interested in me! As ideal as the situation appeared, dating was much more difficult than I thought it would be! If dating was this difficult, I could only imagine that marriage would be exponentially more so. I recognized that though I could continue to survive as I was, I wouldn’t thrive without additional help. At that difficult point, I made the decision to start seeing a Christian counselor.

. . . .

Looking back, I realize I needed my entire thought life to be transformed, but my patterns of thinking were so deeply ingrained that I couldn't have identified them by myself. It wasn't simply that I had moments of feeling worthless and unlovable; in the core of my being, I was sure it was true.

....

Since I had been mistreated and abused by several men I had allowed to get close to me, I had a very difficult time trusting Roy and letting him in to my world. She [counselor] helped me realize that Roy was a safe person, and that I needed to be willing to trust him and be vulnerable with him. Later, when Roy & I were engaged to be married, she helped us to prepare for that transition by meeting with us together.

I believe that the majority of people who struggle with same-sex attraction are in that same place. Though they may be able to survive the struggle, only receiving support from a few groups, or by attending a support group, they could really thrive if they were willing to receive the intense, one-on-one help that therapy offers. Some people in recovery are hesitant to see a therapist or a counselor because they think that counseling is for the "world," that they just need to pray harder, expecting God to reveal everything to them personally and healing them in their prayer closets.

....

My journey to recovery has been long and arduous, but more than worth it. God has helped me in many ways along the path to recovery. Therapy played a key role in expediting my experience of God's healing in my life. My own therapy taught me how to help others experience their own journey of healing and restoration.⁶

CONCLUSION

Same-sex attraction is not an immutable characteristic determined at birth, like race or gender. The growing public acknowledgment of ex-gays and the personal testimonies of the individuals included above demonstrate that same-sex attraction is a phenomenon that can and does change. Homosexual sexual orientation is not predetermined and fixed by “the accident of birth,” but is in fact subject to alteration and change. Therefore, individuals struggling with unwanted same-sex attraction in should not be legally barred from obtaining professional assistance from the medical and counseling professions.

For the foregoing reasons, this Court should affirm the district court’s order granting a preliminary injunction to the Plaintiffs and Appellees against the enforcement of SB 1172.

Dated: February 26, 2013

Respectfully submitted,

s/ Dean R. Broyles

Dean R. Broyles, Esq.

The National Center for Law & Policy

539 West Grand Avenue

Escondido, California 92025 (760)747-4529

dbroyles@nclplaw.org

Counsel for Amicus Curiae

Parents & Friends of Ex-Gays & Gays

⁶ <http://pfox-exgays.blogspot.com/2013/01/letting-others-help-on-journey.html>28

STATEMENT OF RELATED CASES

Pursuant to Ninth Circuit Rule 28-2.6, *amicus curiae* state that the following case is related: *Pickup et al. v. Brown et al.*, Ninth Circuit, Case No. 12-17681.

Dated: February 26, 2013

s/ Dean R. Broyles

Dean R. Broyles, Esq.

The National Center for Law & Policy

539 West Grand Avenue

Escondido, California 92025 (760)747-4529

dbroyles@nclplaw.org

Counsel for Amicus Curiae

Parents & Friends of Ex-Gays & Gays

CERTIFICATE OF COMPLIANCE

I hereby certify that, Federal Rules of Appellate Procedure 29(d), 32(a)(7)(B), 32(a)(7)(C), and Ninth Circuit Rule 32-1, I certify that the attached brief has been produced using 14 point Times New Roman font which is proportionately spaced. The brief contains 5,221 words, including footnotes, as calculated by Microsoft Word 2007.

Dated: February 26, 2013

s/ Dean R. Broyles

Dean R. Broyles, Esq.

The National Center for Law & Policy

539 West Grand Avenue

Escondido, California 92025 (760)747-4529

dbroyles@nclplaw.org

Counsel for Amicus Curiae

Parents & Friends of Ex-Gays & Gays

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
CASE NUMBER 13-15023**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th of February, 2013, I filed the foregoing with the Clerk of the Court for the United States Court of Appeal for the Ninth Circuit electronically through the CM/ECF system. I certify that service as to all participants in the case that are registered CM/ECF users will be accomplished by the appellate CM/ECF system.

I FURTHER CERTIFY that some of the participants in the case are not registered CM/ECF users. On February 26, 2013, I have caused to be mailed, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Hayley Gorenberg
Lambda Legal Defense & Education Fund, Inc.
120 Wall Street
New York, NY 10005-3904

Dated: February 26, 2013

s/ Dean R. Broyles
Dean R. Broyles, Esq.