

**No. 20-0644**

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**IN THE SUPREME COURT OF TEXAS**

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**COOK CHILDREN’S MEDICAL CENTER,  
*Petitioner,***

**v.**

**T.L., A MINOR AND MOTHER, T.L., ON HER BEHALF,  
*Respondents.***

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On Petition for Review from the  
Second Court of Appeals at Fort Worth, Texas  
No. 02-20-00002-CV

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**REPLY IN SUPPORT OF PETITIONER’S EMERGENCY MOTION TO EXPEDITE**

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From this case’s inception, both Petitioner and Respondents have sought to move quickly. Indeed, despite prevailing in the trial court, Cook Children’s moved the court of appeals to expedite briefing and argument, as the court in fact did. Cook Children’s did so because of the same concerns that animate its motion to expedite in this Court: the undisputed medical evidence that T.L. suffers grievously every day, suffering that is prolonged every day it is unresolved. Indeed, it is telling that Respondents’ assertion that the facts regarding T.L.’s suffering “are far from settled, agreed or established” cites to a blank footnote: Respondents introduced no medical evidence at the temporary-injunction hearing, let alone evidence disputing that T.L.

is in daily agony as Cook Children’s medical professionals are forced to inflict pain against their conscience and ethics. That undisputed evidence was accepted by Chief Justice Marion, sitting as the trial court. It is consequently a fact that cannot be overcome in this Court.

The court of appeals’ opinion is no barrier to expeditious briefing, swift review, and a speedy resolution. The issue on which this case turns—whether a private hospital’s medical decision-making constitutes state action—has been thoroughly briefed by both parties in the court of appeals. While the court of appeals’ novel state-action holding must be addressed, the principles governing this area of the law are well-established and familiar to the parties. The wheel need not be reinvented. Furthermore, much of the court of appeals’ decision’s length is attributable to its digressions into irrelevant hypotheticals and statutes that are not before this Court.

Respondents’ attempts to distinguish *In re Texas Department of Family & Protective Services* and *Perry v. Del Rio* are also unavailing. Respondents observe that *Perry* “did not concern life and death.” Mot. 4. Indeed, it concerned redistricting. Matters of life and death—of constant, daily suffering—must warrant more immediate attention. As for *DFPS*, Respondents contend that this Court’s remarkably quick review to stem the children’s ongoing harm is inapposite because that case “did not determine fundamental issues of parental rights.” Mot. 4. The same

is true here. This case will not touch parental rights. Rather, binding United States Supreme Court precedent resolves this case easily without any need for this Court to address those questions. It is on the basis of that precedent that Cook Children's seeks review.

Finally, while this case should be decided quickly, Cook Children's is not requesting the light-speed review that occurred in *DFPS* or *Perry*. Cook Children's accepts that the parties should have time to write "comprehensive," Resp. 5, briefs on the important questions this case presents. While Cook Children's would prefer an expedited briefing schedule along the lines this Court recently ordered for Respondents' response to Cook Children's petition, the normal briefing schedule, without extensions, would afford the parties sufficient time, and give this Court the ability to expedite a resolution as swiftly as possible.

An unfortunate but inevitable truth, in resolving society's weightiest issues, is that questions of life, death, and suffering cannot humanely be deferred. Yet with the assistance of competent counsel, this Court has established, time and again, its capacity to render a thorough opinion quickly so that an emergent need is addressed. Counsel for both sides has proved capable to this point, despite the quick pace required of them. There is no basis for moving slowly now, when neither the law nor the suffering can reasonably be contested.

**PRAYER**

For these reasons, Petitioner Cook Children's Medical Center respectfully requests that this Court expedite briefing and consideration of this appeal.

Respectfully submitted,

/s/ Wallace B. Jefferson

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I hereby certify that on August 28, 2020, a true and correct copy of this motion, including any and all attachments, is served via electronic service through eFile.TXCourts.gov on parties through counsel of record, listed below:

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