

No. 19-35506

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MENDOZA, et al.,

Petitioners,

v.

GARRETT, et al.,

Respondents.

On Appeal from the United States District Court
for the District of Oregon

**BRIEF AMICUS CURIAE OF
METROPOLITAN PUBLIC DEFENDER AND
LEWIS & CLARK LAW SCHOOL'S
CRIMINAL JUSTICE REFORM CLINIC
IN SUPPORT OF PETITIONER**

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FRAP 26.1 STATEMENTS

I certify that *amicus curiae* Metropolitan Public Defender is not a publicly held corporation and does not have any parent corporation and that no publicly held corporation owns 10 percent or more of its stock.

Dated: September 25, 2019

/s/ Aliza B. Kaplan
Aliza B. Kaplan, OSB No. 135523
Of Attorneys for Amicus Curiae

I certify that *amicus curiae* Criminal Justice Reform Clinic is not a publicly held corporation and that no publicly held corporation owns 10 percent or more of its stock. It does have a parent corporation, which is Lewis & Clark Law School.

Dated: September 25, 2019

/s/ Aliza B. Kaplan
Aliza B. Kaplan, OSB No. 135523
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I. INTEREST OF AMICUS CURIAE¹

Pursuant to Rule 37, the Metropolitan Public Defender (“MPD”) and Lewis & Clark Law School’s Criminal Justice Reform Clinic (“CJRC”) respectfully submits this brief amicus curiae in support of Plaintiffs.

Metropolitan Public Defender (“MPD”) was founded in 1971 and is the largest non-profit law firm provider of public defense services in Oregon. MPD’s Criminal Division represents individuals charged with adult criminal offenses, juvenile delinquency and dependency matters, specialty treatment courts, and civil commitment hearings in Multnomah and Washington counties. MPD’s Community Law Division (“Community Law”), which was created in 2016, represents and assists individuals in civil matters who were and are involved, or are at risk of involvement, in the criminal justice system. Community Law helps clients navigate the legal system and remove barriers to economic, housing, and educational opportunities.

Community Law serves past and current clients of MPD and clients of established community partners² (such as city governments, counties, non-profits,

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

² US Department of Veterans Affairs’ Supportive Services for Veteran Families; Transition Projects (TPI); Impact NorthWest; Veteran’s Justice Outreach Program;

and managed care organizations). Community Law's specialty is diminishing the downstream effects of criminal justice involvement. Its mission is to help undo the damage done by an imbalanced criminal justice system by reducing social stigma and clearing its clients' records. Community Law's record clearing services include, among other things, criminal record expungement, waiving court fines and fees, and driver's license reinstatement. These services often work together. For example, a driver's license may be suspended because a client, too poor to pay, owes traffic debt. Community Law works with these clients to relieve traffic debt so their driver's license can be reinstated.

CJRC is a legal clinic dedicated to students receiving hands-on legal experience while engaging in a critical examination of and participation in important issues in Oregon's criminal justice system. In addition to direct client

HUD/VASH; Nabvets; Community Resource and Referral Center; Kaiser Permanente North West; Wallace Medical Concern; Central City Concern; Home Forward; New Avenues for Youth; Outside In; NAYA; Janus Youth; P:ear; Rosewood Initiative; PCC Cascade Campus' Paralegal Program; Human Solutions; Metropolitan Family Services; Self Enhancement Inc. ; Multnomah County Housing Stability Team; El Programa Hispano; Latino Network;; Janus Youth Programs; Call to Safety; Raphael House; Healthy Birth Initiative; IRCO; Urban League; Department of Human Services Self Sufficiency (Multnomah and Clackamas Counties); Street Roots; Volunteers of America; Native American Rehabilitation Association; South East Works; Miracles Recovery Club; Urban League; Black Parent Initiative; Alano Club; Cascade AIDS Project; Recovery Outreach Community Center; Bridges to Change; Black Lives Matter; Community Works Project; Clackamas County Social Services; CODA/Gresham Recovery Center; The Center for Family Success; Catholic Charities; Cascadia Behavioral Health Care.

casework, CJRC also works in collaboration with attorneys and organizations in Oregon on various research reports, data driven projects, and legal briefs designed to understand and improve Oregon's criminal justice system. One of the CJRC's collaborations is with Community Law, which CJRC's Director helped create. CJRC's barrier reduction project is embedded in Community Law. Under the supervision of Lewis & Clark Law School faculty and Community Law attorneys, certified law students represent low income Oregonians in circuit and municipal courts to remove the barriers that keep them in poverty, including those whose driver's licenses have been suspended because of nonpayment of fines and fees arising from traffic violations.

Community Law represents numerous clients who are mired in traffic debt, have lost their driver's licenses, and see no way out due to their indigence. We know from our experience representing clients that Oregon's practice of automatically suspending driver's licenses of low-income traffic debtors is ineffective and harmful to our clients. We write to explain that several of the presumptions underlying the district court's decision in this case were factually inaccurate, and to urge this Court to allow this case to proceed to discovery. The relief plaintiffs seek would impact profoundly the low-income clients amici serve every day.

In order to illustrate these points, throughout this brief we will tell the stories

of four Community Law clients: Shaykeishya Hardin, Sonnita Martin, Markquala Bradley, and Edmund Goulart. Each of them owed traffic debt to multiple Oregon municipal and/or justice courts, asked the courts for relief, and received a varied response. By relating their experiences, we hope to characterize the struggles of many low-income Oregonians.

II. STATEMENT OF ARGUMENT

As relevant to this brief, three factual assumptions appear to underlie the District Court's Preliminary Injunction Order³ and Order of Dismissal regarding the current system in which Oregon courts evaluate motions and letters to waive traffic debt. First, the court implied that Oregon judges consider a defendant's ability to pay when assessing a traffic fine. *Mendoza I*, 358 F. Supp. 3d at 1161. Second, the court suggested that Oregon courts offer payment arrangements tailored to individual circumstances when a defendant with a suspended license engages with the traffic court. *Id.* at 1180. Finally, the court seemed persuaded by the notion that license suspension successfully prompts low-income drivers to pay their traffic debt. *Id.* at 1174–75.

³ Plaintiffs appeal the District Court's denial of their motion to dismiss, *Mendoza v. Garrett*, No. 3:18-cv-01634-HZ, 2019 U.S. Dist. LEXIS 85906 (D. Or. May 16, 2019) ("*Mendoza IP*"). That order relied extensively on the reasoning of the order denying plaintiffs' preliminary injunction, *Mendoza v. Garrett*, 358 F. Supp. 3d 1145 (D. Or. 2018) ("*Mendoza I*"). Accordingly, we address the common assumptions underlying both orders.

None of the above have been our clients' experiences. First, Oregon courts seldom consider a traffic debtor's ability to pay before issuing a notice of suspension to the Department of Motor Vehicle ("DMV"). Second, Oregon courts rarely consider a traffic debtor's ability to pay after issuing a notice of suspension to the DMV. Finally, license suspension for nonpayment of traffic debt does not result in low-income people, who cannot afford to pay, paying.

a. **MPD AND CJRC HAVE EXTENSIVE EXPERIENCE
REPRESENTING LOW-INCOME TRAFFIC DEBTORS.**

Community Law and CJRC regularly represent low-income traffic debtors whose driver's licenses are suspended for nonpayment because they cannot afford to pay their traffic debt. Our clients owe traffic debt to various circuit, municipal, and justice courts in Oregon. Pursuant to ORS 161.685(5), we file motions and send letters asking these courts to waive the traffic debt our clients owe at the courts' discretion because our clients are not in contempt. The Oregon Supreme Court has interpreted ORS 161.685(5) to provide defendants with a mechanism to petition courts for revocation of their fines in the "event of unforeseen circumstances" *State v. Hart*, 299 Or. 128, 141 (1985). A combination of mitigating factors such as a client's low income, receipt of state benefits, caring for young children, a disability, and attending school or vocational training weigh in favor of waiving traffic debt. In response to our motions and letters, we have received a range of outcomes, from outright denials to full waivers to some form of

a payment plan or conversion to community service.

Community Law often learns of a client's suspended driver's license through our other representation and advocacy, such as motions to set aside criminal records. For example, a client may contact Community Law because they are interested in expunging their Oregon criminal record. As the attorney analyzes the client's record to determine if they are presently eligible for expungement, the attorney may come across information—either through the Oregon eCourt Case Information (“OECI”) system or directly from the client—that the client's driver's license is suspended due to nonpayment of traffic debt. When talking with these clients, we often learn that not having a driver's license is a contributing factor to poor employment history; clients lose jobs because they are late for work due to public transportation or can only seek employment within walking distance to their apartment. Not having a driver's license also limits our clients' ability to seek housing in safe or desirable neighborhoods; they must stick to housing on bus routes that are often in the more congested parts of town. Because this is often a significant barrier to employment, housing, or educational opportunities, we often assist the client in reaching out to courts to get traffic debt waived or reduced in the hopes of getting their driver's license reinstated because having a driver's license contributes to better overall success for our clients. CJRC students assist the attorneys with the motions and letters to the courts.

For example, we assisted Shaykeishya Hardin when the DMV was threatening to suspend her license for non-payment of fines. Ms. Hardin is a single mother with four children and is currently in bankruptcy proceedings. Although her driver's license was valid, she was fearful that it would be suspended soon because she owed on several traffic tickets that would not be discharged by her bankruptcy. This would create a severe hardship on her ability to care for her children—one of whom needed intense therapy and needed transportation to several appointments throughout the week. So she sought help from a Community Law attorney.

Ms. Hardin is a recovered addict. She graduated from the Volunteers of America Addiction Prevention and Treatment Program, and is almost five years sober. She has stable housing, for which she pays \$1,116.00 per month, and she has also maintained steady employment. She works as a domestic violence advocate and recovery mentor, earning \$17.00 per hour. Ms. Hardin is also taking the steps needed to repair her financial setbacks.

With four children, she struggles to cover basic living expenses, including childcare, insurance, internet service, phone, and utilities. The family receives \$600.00 in Supplemental Nutrition Assistance Program (“SNAP”) benefits, but does not receive child support. Additionally, Ms. Hardin relies heavily on the use of her own transportation to provide for her children. Ms. Hardin owed traffic debt

to Lake Oswego Municipal Court, Milwaukee Municipal Court, and Fairview Municipal Court.

Ms. Hardin owed the Fairview Municipal Court \$1,100.00 for a 2013 citation for “driving with a suspended license” and “without registration or insurance.” The traffic debt was in collections. Her Community Law attorney wrote the court a letter, asking it to (1) return the traffic debt from collections; (2) waive or reduce the traffic debt; and (3) convert the remaining amount to community service or allow her to get on a payment plan for \$25.00 a month.

Ms. Hardin and her Community Law attorney attended a hearing at the Fairview Municipal Court on the matter. The court converted her debt to 11 hours of community service.

Ms. Hardin owed the Lake Oswego Municipal Court \$550.27 for a May 2013 citation for “driving with a suspended license” and “driving without insurance.” The traffic debt was in collections. Her Community Law attorney wrote the court a letter, asking it to (1) return the traffic debt from collections; (2) waive or reduce the traffic debt; and (3) convert the remaining amount to community service or allow her to get on a payment plan for \$25.00 a month.

The Lake Oswego Municipal Court responded to Ms. Hardin’s request via mail, stating it would pull the citations from collections and waive the traffic debt completely.

Ms. Hardin owed the Milwaukee Municipal Court \$495.00 for a 2018 citation for “driving without a license or insurance” and \$2,337.00 for citations in 2011 related to driving with a suspended license and disobeying traffic laws. The traffic debt was in collections. Her Community Law attorney wrote the court a letter, asking it to (1) return the traffic debt from collections; (2) waive or reduce the traffic debt; and (3) convert the remaining amount to community service or allow her to get on a payment plan for \$25.00 a month.

The Milwaukee Municipal Court responded to Ms. Hardin’s request, stating it was denying her request in its entirety.

Ms. Hardin is African-American. A disproportionate share of the clients we represent are, like Ms. Hardin, people of color. While traffic debt wreaks havoc on the lives of poor Oregonians, it is not distributed proportionately. Traffic debt and license suspension have a racially disparate impact—they disproportionately harm Oregonians of color. For example, in Multnomah County, black people are three times as likely to be fined for failing to use their vehicle’s lights. *See Pamplin Media Group, Our Opinion? What Happened to Disparity Data?*, PORTLAND TRIBUNE (Dec. 21, 2017), <https://pamplinmedia.com/pt/10-opinion/381885-269623-our-opinion-what-happened-to-disparity-data>. And one study found Latinos residents in Oregon are charged with “driving while suspended” at twice the rate of whites. Kate Willson, *Driving While Brown*, INVESTIGATEWEST (Feb.

16, 2017), <https://www.invw.org/2017/02/16/driving-while-brown/>.

Moreover—regardless of how often they receive citations—black Oregonians pay more for their tickets. While white individual’s median ticket cost is \$181.00, black individual’s median ticket is \$261.00. Lee Vander Voo and Nick Budnick, *The High Costs of Disparities for People of Color in Multnomah County*, INVESTIGATEWEST (Feb. 2, 2017), <https://www.invw.org/2017/02/02/being-black-in-multnomah-county/>. And in 16 counties from 2011-2015, Hispanics were charged two or more times more than whites. Kate Willson, *Driving While Brown*, INVESTIGATEWEST (Feb. 16, 2017), <https://www.invw.org/2017/02/16/driving-while-brown/>. Each of these instances of racial disparity exacerbates the problems inherent in Oregon courts’ processes of assessing traffic debt and addressing default.

b. OREGON COURTS SELDOM CONSIDER ABILITY TO PAY BEFORE SUSPENDING LOW INCOME PEOPLE’S DRIVER’S LICENSES.

Minimum fines for traffic violations are mandatory, and it has been our clients’ experience that judges generally do not consider ability to pay when imposing fines. *See* ORS 153.021. Whether a judge reduces traffic debt varies widely from county to county, judge to judge.

If an Oregonian fails to pay a ticket after being “convicted” of any traffic offense—such as not having a registration plate light—a court may issue a “notice

of suspension” to the DMV. *See* ORS 809.210(1), 816.320(1)(c). Then, a DMV computer generates a license suspension letter, without review by a judge.

Oregon judges rarely if ever take ability to pay into account when sentencing a defendant on traffic debt. In the very rare instance, if a judge does take a client’s individual financial circumstances into account, statutory minimum fines under ORS 153.021 are mandatory. In our experience, the most common compromise a court will offer is a payment plan. However, payment plans can vary widely from county to county, court to court. Some courts require the client to pay a one-time lump sum payment (often hundreds of dollars) before the client can begin monthly payments; others will not allow monthly payments lower than \$50.00; still others require consistent payments for six months before one’s driver’s license is reinstated. Clients will set up these payment plans intending to pay, but often fall behind because they have other more important expenses such as food, housing, and childcare. Because our clients are indigent, sometimes homeless, and their budgets are incredibly tight, even a \$25.00 monthly payment plan can be unaffordable.

c. OREGON COURTS RARELY CONSIDER TRAFFIC DEBTORS’
ABILITY TO PAY AFTER ISSUING A NOTICE OF SUSPENSION
TO THE DEPARTMENT OF MOTOR VEHICLES.

Once a notice of suspension has been issued to the DMV, Oregon courts rarely consider whether or not the traffic debtor is able to pay off their fines.

Typically, a notice is sent to the debtor that instructs them to contact the court to seek clearance. However, these attempts are usually futile for multiple reasons. For example, the DMV relies on the address the debtor may have on file, which for our clients, is often unreliable. As is common with indigent people, our clients' addresses often change as their housing situations are frequently precarious. Often, the notice never gets to the client. Courts rarely, if ever, have any alternative method for reaching clients: they do not offer phone calls, emails, or web-interface communication. A single notice is sent, and if the person does not show up for court, they eventually go into default and the license is suspended, often to the surprise of our clients.

This debt eventually ends up in collections and generally courts are unwilling to do anything to assist with taking that fine out of collections unless the client has an attorney that is willing to argue the issue to the court. This leaves it up to the debtor to resolve the fine with the collection agency, which is extremely difficult since the collection company directly benefits from having the debt sit in its department for as long as possible since a daily interest is charged. For clients with little or no income, resolving traffic debt with a collection agency can be nearly impossible.

In our experience, there are few Oregon courts with procedures, processes, or standards for offering relief of traffic debt. The standard procedure across

Oregon courts is to request that the debtor pay off the traffic debt in full.

Occasionally, a court may offer to take the traffic debt out of collections if our client can immediately pay half of the fine. Other courts will occasionally offer to waive the interest the fee has attained, but require the client to pay the rest in full. Still other courts can and do hold our clients in contempt of court and threaten jail time or “work crews” unless and until they can pay their traffic debt. These inconsistencies across courts hurt our clients, as many clients have traffic debt in multiple counties and struggle to follow the process for each individual municipality.

This was the experience of Sonnita Martin. Ms. Martin is a single mother with three children. Her only income is through Temporary Assistance for Needy Families (“TANF”), and she lives in voucher-assisted housing (colloquially known as Section 8 housing). In 2012, Ms. Martin received a “driving while suspended” traffic ticket for \$435.00 in Linn County. At that time, she was in a domestic violence relationship, battling addiction, and had no ability to pay. Because she failed to pay her fine, a Linn County Justice Court judge issued a “contempt of court” charge. Ms. Martin appeared for court and entered a guilty plea, admitting that she could not afford to make any payments on the ticket. Ms. Martin was then put on bench probation, ordered to pay the traffic debt and obey all laws. Ms. Martin’s financial situation had not significantly changed, and she still could not

afford to pay the traffic debt, which had subsequently accrued additional fines and fees. Ms. Martin was then ordered to do 10 days of compensatory service with the Linn County Sheriff's Department, which she was unable to complete because she had moved to Portland and could not get to Linn County because she did not have a driver's license. She asked to have her probation transferred to Multnomah County, which did not occur. Because she failed to appear for the 10 days of compensatory service, she was given two warrants: (1) from the Sheriff's Office for failing to complete compensatory service and (2) from Linn County Justice Court for the "contempt of court" for failure to pay her traffic debt. Furthermore, the \$435.00 ticket ballooned to \$2,044.00.

When Ms. Martin's Community Law attorney reached out to the court to see what could be done in order to close the warrants, she was told that Ms. Martin must turn herself in to the Sheriff's Department and would likely have to spend at least 20 days in jail. With three young children, one of whom suffers from a serious and debilitating respiratory problem requiring a large breathing apparatus at all times (which Ms. Martin lugs on public transportation), turning herself in to do 20 days of jail time and leaving her children is not an option.

Another example is Markquala Bradley, a single mother of two children. She makes \$15.00 an hour. Because she has employment, she does not qualify for TANF or SNAP benefits. She also owes approximately \$13,000.00 in student

loans. Considering her monthly expenses total \$1,713.00 (not including food and clothing), she does not have much money left over at the end of the month.

Ms. Bradley owed \$4,387.25 to Newberg Municipal Court for two traffic citations. Notably, both traffic citations included a ticket for “driving while suspended” and the original ticket amount was \$435.00. Because Ms. Bradley did not appear in court for those citations, the court imposed an additional fine and maxed out her ticket to \$2,000.00 on each citation. They were both in collections. A CJRC student reached out to the court on behalf of Ms. Bradley, asking if the court would be willing to (1) return the traffic debt from collections; (2) waive or reduce the amount owed; (3) allow Ms. Bradley to complete community service or get on a payment plan of \$10.00 a month; and (4) lift the hold on Ms. Bradley’s driver’s license.

The Newberg Municipal Court responded, stating that if Ms. Bradley’s could pay \$25.00 per month *and* complete 10 hours of community service for six months, the hold on her license would be released.

Ms. Bradley also owed \$1,328.20 to Clackamas County Justice Court for a single citation. A Community Law Attorney emailed one of the clerks at the Justice Court explaining Ms. Bradley’s situation. The court offered to reinstate her license after a down-payment of \$100 and a monthly payment plan of \$35.00 to the collection company.

Community Law also represented Edmund Goulart, who had traffic debt in Fairview Municipal Court and Canby Municipal Court that was suspending his driver's license.

Mr. Goulart owed \$650.00 in traffic debt to Fairview Municipal Court. This debt was in collections. A student with the CJRC wrote a letter to the court, asking if it would reduce the amount he owed, allow him to make a one-time payment in the range of \$150.00-200.00 or monthly payments of \$50.00. The court responded, allowing Mr. Goulart to make \$35.00 monthly payments. The court would remove the hold on his driver's license once he paid \$100.00. Additionally, the court document that required Mr. Goulart's signature in order to accept this agreement stated:

For failure to pay the fine as agreed, the court will void this agreement and one or more of the following will happen:

- Suspension of your driver's license
- *A warrant could be issued for your arrest*
- Additional \$25 late fee added to your account (After 1st late payment)
- Account is referred to a collection agency (After 2nd late payment)

(Emphasis added).

Mr. Goulart owed approximately \$700.00 in traffic debt to Canby Municipal Court. When his Community Law attorney reached out to the court, she was told it had an "amnesty program" for the rest of the month where the traffic debtor could get their debt cleared by only paying half of what they owed the court. However, Mr. Goulart did not have the \$350.00 to pay the court. Thankfully, Community

Law's Supportive Services for Veterans' Families program was able to pay some of his other monthly expenses so he could use that money to pay the \$350.00 in traffic debt.

Community Law attorneys began to file motions and send letters to circuit, municipal and justice courts asking for relief on behalf of our clients in 2016. Courts were, and still are, often perplexed and unsure what to do with these motions, and many reject them outright. Where we have had some success, it happens on an individual and somewhat random basis, and usually only addresses a tiny fraction of the need. Of the few courts that have been willing to offer some relief, we have found that some judges are willing to agree to put our clients on payment plans (though few are willing to waive the entire monetary fee). We have also found these motions and letters to be most successful in circuit courts, and least successful in municipal and justice courts—whose budgets rely heavily on collecting traffic debt. *See* ORS 153.645 and ORS 153.650.

Once a license is suspended, our clients are then at risk, and often receive tickets for “driving while suspended.” This happens because clients are unable to afford to reinstate their licenses but still require the mobility of driving for their jobs, childcare, and health care. If a debtor has tickets in multiple courts, she must work out the traffic debt with each court. In many ways, the DMV policy of suspending licenses for unpaid traffic debt causes a domino effect: even if two

courts agree to an affordable payment plan, the third court can completely block the debtor from getting her driver's license back if the barriers make a payment plan inaccessible. Post-license suspension relief is not functionally available for the overwhelming majority of low-income traffic debtors, as the process is long and expensive.

d. LICENSE SUSPENSION FOR NONPAYMENT OF TRAFFIC DEBT DOES NOT RESULT IN LOW-INCOME PEOPLE PAYING.

The mechanism implemented to suspend licenses for unpaid traffic debt in hopes of deterring nonpayment does not result in low-income people paying traffic debt that they cannot afford to pay. We know first-hand that the threat of license suspension rarely works to coerce payment of traffic debt from our clients. When our clients do pay, they usually have sacrificed a different essential expense. For example, many times clients may become delinquent on rent or utilities, risking eviction or electricity shutoff or they may go without food or medications. Enforcing traffic debts against low-income people who cannot afford to pay puts them at risk.

We have found many clients work multiple jobs to keep their families afloat and have nothing leftover to pay their traffic debt. For example, Mr. Goulart—a veteran with three children whose experiences in Oregon traffic courts are described in the previous section—works two jobs, seven days a week. Because his monthly income is approximately \$2,200.00, he does not receive government

assistance. However, his monthly housing and utility costs total \$1,765.00, which does not leave much leftover for food and other expenses for his family.

This system drastically disadvantages low-income people, as they have fewer resources and are therefore at a higher risk of losing their driver's licenses. People living paycheck to paycheck or with no income at all do not have the option of paying a lump sum amount in order to avoid the consequences of an unpaid speeding ticket. It therefore comes as no surprise that a suspended driver's license is directly correlated with job loss⁴ and missed job opportunities⁵. Without a job, or without career advancements, our clients are unable to make the money that is required to reinstate their licenses. This predicament is even truer for clients living in rural areas or in places that are too far from public transportation.

This cycle of hardship does not provide any relief to low-income people to make forward progress. Rather, it works to keep them in poverty. The system takes away the little they can provide for themselves or their families in order to avoid losing their driver's licenses, so that they can avoid losing their jobs. This not only is an unsuccessful motivator, it is also unjustly disadvantaging low-income individuals.

⁴ See Jon A. Carnegie et al., N.J. Dep't of Trans., *Driver's License Suspensions, Impacts and Fairness Study*, at 66 (2007).

⁵ Alana Semuels, *No Driver's License, No Job*, THE ATLANTIC (Jun. 15, 2016), <https://www.theatlantic.com/business/archive/2016/06/no-driverslicense-no-job/486653/> (last visited Sept. 25, 2019).

III. CONCLUSION

For the aforementioned reasons, we ask this Court to reverse the district court's dismissal of the complaint and remand for further proceedings on all the plaintiffs' claims.

Dated: September 25, 2019

Respectfully submitted,

/s/ Aliza B. Kaplan

Aliza B. Kaplan, OSB No. 135523

Of Attorneys for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I am one of the attorneys for amicus curiae.

This brief contains 4917 words, excluding the items exempted by Fed. R. App. P. 32(f). I certify that this brief complies with the word limit of Cir. R. 32-1.

Dated: September 25, 2019

Respectfully submitted,

/s/ Aliza B. Kaplan

Aliza B. Kaplan, OSB No. 135523

Of Attorneys for Amicus Curiae

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 25th day of September, 2019, I caused this BRIEF OF *AMICI CURIAE* METROPOLITAN PUBLIC DEFENDER AND LEWIS & CLARK LAW SCHOOL'S CRIMINAL JUSTICE REFORM CLINIC IN SUPPORT OF PLAINTIFFS-APPELLANTS to be filed electronically with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the participants in the case who are registered CM/ECF users.

Dated: September 25, 2019

Respectfully submitted,

/s/ Aliza B. Kaplan

Aliza B. Kaplan, OSB No. 135523

Of Attorneys for Amicus Curiae