

Akilah Deernose
Alex Rate
ACLU of Montana
P.O. Box 1968
Missoula, MT 59806 | 406-203-3375
deernosea@aclumontana.org
ratea@aclumontana.org

Elizabeth O. Gill*
Malita Picasso*
Arijeet Sensharma*
ACLU Foundation
125 Broad Street
New York, NY 10004 | 212-549-2561
egill@aclunc.org
mpicasso@aclu.org
asensharma@aclu.org

Matthew P. Gordon
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101 | 206-359-8000
mgordon@perkinscoie.com

Peter C. Renn*
Kell Olson*
Christina S. Paek*
Lambda Legal Defense and Education Fund
800 S. Figueroa Street, Suite 1260
Los Angeles, CA 90017 |
213-382-7600
prens@lambdalegal.org
kolson@lambdalegal.org
cpaek@lambdalegal.org

Nora Huppert*
65 E. Wacker Place, Suite 2000
Chicago, IL 60601 | 312-663-4413
nhuppert@lambdalegal.org

*subject to pro hac vice admission

**IN THE FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

VAN GARDEREN, et. al.)
)
Plaintiffs,)
)
v.)
)
STATE OF MONTANA, et. al.)
)
Defendants.)

Case No.: DV-23-541
Judge: Hon. Jason Marks

DECLARATION OF JANE DOE

I, Jane Doe, hereby declare as follows:

1. I am a Plaintiff in this action. My husband (John Doe) and I are using pseudonyms. I offer this Declaration in support of Plaintiffs' Motion for a Preliminary Injunction. I have personal knowledge of the facts set forth in this Declaration and could and would testify competently to those facts if called as a witness.
2. John Doe and I are the parents of Joanne Doe, a fifteen year old daughter as well as a twelve year old son. We live in a mid-sized city in Montana.
3. I am a board-certified licensed pediatrician in the state of Montana, although not currently practicing. I currently work as a medical educator.
4. John Doe is a board-certified licensed emergency medicine physician in the state of Montana.
5. Joanne Doe is transgender, which means she was assigned male sex at birth but her gender identity is female.
6. Throughout most of her childhood, Joanne expressed her gender identity in a traditionally female manner. For example, she preferred to wear traditionally feminine clothing, and to play with toys generally associated with girls. Although I did not initially have a robust

understanding of gender diversity, it made sense to me when I learned that Joanne was transgender.

7. I vividly remember returning home from work when Joanne was three years old and learning that her babysitter had taken her to a thrift store and bought her an item of her choosing. She was so thrilled to show me the pink, velvet, ruffled dress that she had chosen. She ecstatically put it on for me in the bathroom and lit up.
8. At the time, I did not think that Joanne's joy at wearing the dress had anything to do with gender identity. I do, however, remember feeling proud and in awe of her pride, confidence, and comfort with wearing the dress. Although I did not know exactly what it was, I recall thinking there was something powerfully authentic that Joanne was tapping into.
9. My husband, likewise, did not think that Joanne wearing the dress had anything to do with gender identity. He, however, was not comfortable with her dressing in traditionally female clothing. As a compromise, we instituted a rule where she was only allowed to wear her dress and other traditionally female clothing in private, at home, and had to dress in a traditionally male manner outside of the house.
10. After that day, Joanne often wore that dress around the house and always beamed when she put it on.

11. Joanne did not frequently vocalize her desires related to gender expression, but it came out through her actions and defiant resistance to traditionally male activities and clothing. She was only happy when at home, wearing a dress. She resisted leaving the house because it meant she had to put on her “boy clothes.” For many years before her transition, I took her to get traditionally male short haircuts. She frequently fought, cried, and resisted leaving the house when it was time to leave for haircuts. I did not realize that Joanne’s desire to wear traditionally female clothing and her intense shut downs when wearing male clothing or her intense reactions to getting traditionally male haircuts were related to gender identity.

12. In first grade, before she transitioned, she heard about aerial arts and wanted to try it as an extracurricular activity. I signed her up for classes and stayed and viewed her in many of her classes. Watching her in these classes, I witnessed her engage with interest in participating. This was in stark contrast to previously watching her experiment with sports such as basketball and soccer, where she had always withdrawn, shut down, and pulled away.

13. Starting around age three, it became obvious to me and my husband that Joanne’s mental health was declining. She did not want to leave the house, she had significant emotional outbursts that steadily increased in frequency and intensity, and she appeared to be suffering from depression and anxiety that was worsening. When she was around six and a half years old, my husband found Joanne self-harming. At that time, we began to seek mental health counseling for her.

14. At the same time, in attempt to better understand the cause of Joanne's struggles, I undertook vigorous research. I soon realized our daughter's behavioral issues were related to childhood gender non-conformity and that I and our family, needed to find greater resources to support her. Because both my husband and I are physicians, I paid special attention to reviewing as much of the medical literature related to gender non-conformity as I could in an effort to gain understanding and familiarity with this concept that was new to me. My husband also did similar research and agreed.
15. This led us to realize that Joanne needed support and needed to be able to wear the clothing that felt right to her. We decided to let her wear traditionally female clothing outside of the home to see if that would alleviate some of the pain she was experiencing. The improvement was immediate and striking. The first morning she put on her new traditionally female clothing, she ran right outside of the house with a huge smile on her face.
16. Joanne began the process of socially transitioning and by seven years old she started second grade in "girls" clothing and growing out her hair. The mental health professional she was seeing at the time was not a specialist in gender non-conformity and provided us with help related to Joanne's behaviors, but was limited in what she could provide in terms of supporting her or us with needs specific to gender non-conformity. Due to the lack of professionals specializing in gender non-conformity in our community at that

time, we ultimately took it upon ourselves to seek out experts and resources from across the country.

17. When Joanne was eight, her father and I sought out a consultation with a child psychologist specializing in gender non-conformity in Connecticut. This psychologist provided us with many answers and resources. She explained to us in better detail about how to support and parent a transgender daughter during the prepubertal stage. After returning to Montana, Joanne discontinued meeting with her therapist who did not specialize in gender non-conformity. Her father and I also petitioned the court to legally change her name. For legal reasons, we were unable to update the gender marker on her birth certificates until a few years later.

18. For approximately the next one to two years, Joanne did not see any health care professionals for her gender dysphoria due to a dearth of professional support in our local community. Instead, we traveled across the United States, attending conferences with gender professionals, camps for families with gender diverse kids, and engaging in peer-to-peer support programs. To access these professional and expert resources and supports we traveled to Texas, Baltimore, Washington state, twice to Connecticut and at least twice to California. We expended many thousands of dollars seeking out expert information and the best resources to support our daughter. This period of learning was draining, emotionally, financially, and time-wise.

19. I spent countless sleepless nights processing all of the new information and worrying about how to support my child in navigating the bullying and discrimination that transgender people regularly experience. The heavy emotional toll of trying to balance clinical practice against the demands of figuring out the best care options for Joanne while supporting my family through her transition was a major contributing factor in me ultimately deciding to step away from my clinical practice.

20. Around the time Joanne turned eight years old, during her third grade school year, she started seeing a new primary care medical provider with additional expertise in gender. That provider referred her to Seattle Children's Gender Clinic for additional pediatric endocrinology speciality expertise when she was nine years old. Around the same time she started seeing a new mental health therapist who had some expertise and experience with gender. She has continued to see that therapist off and on since that time.

21. When Joanne was in fourth grade, she first saw the pediatric endocrinologist at the Seattle Children's Gender Clinic. Our appointment was in the middle of winter and we had to drive during a severe winter storm. The physician she saw spent a lot of time explaining the treatment options available to Joanne and the requirements she would have to meet before starting hormone therapy treatments as well as the risks involved and potential side effects. Since our daughter had not started puberty yet, she did not begin any medical interventions at that time.

22. At the end of Joanne's fifth grade year, we met with the principal and others at the public middle school that she was set to attend the following fall to discuss how they would

support her gender diversity. They were very concerned for her safety in the locker room and eventually shared that they felt she would be “crushed” at that school. After that, we scrambled to quickly find a private independent middle school in town where she would be safe. Luckily, they still had space and they accepted her, and we had the financial resources to manage the unplanned tuition costs.

23. Around this same time, we returned to the Seattle Children’s Gender Clinic, and after testing, it was determined that Joanne had begun puberty. When she was in sixth grade, I along with my husband, Joanne, and her treating healthcare professionals determined that puberty blockers were right for her. After extensive battles with insurance and specialty pharmacies requiring hours of phone calls by both myself and her primary care provider, she was eventually able to start this treatment during seventh grade. She started taking a puberty suppressant medication. During eighth grade, she was also prescribed estrogen to initiate feminine pubertal changes consistent with her gender identity.

24. Joanna was incredibly anxious about the start of male puberty, and my husband and I were especially scared for the mental and emotion toll its onset would cause Joanna. We were all extremely relieved to be able to medically intervene and stop it.

25. After Joanne started on estrogen, she appeared to be ecstatic with the physical changes to her body. I can see how it has dramatically increased her self-esteem and she appears visibly more comfortable in her body. She now is thriving in numerous ways. She has

many friends and loves to have sleepovers with her best friends. She just finished her first year in high school with a 4.0 GPA while taking advanced classes. She continues to be committed to her aerial arts program and is at the advanced level. And she is frequently praised at her job where she confidently works in a public facing service position.

26. I first heard about the potential of a transgender health care ban in the fall of 2022. I assumed such a bill would be proposed during the 2023 legislative session because a similar ban had failed in the previous legislative session.

27. I was very angry and upset that Montana's legislature was renewing its efforts to ban evidence-based and science-backed healthcare for children that is life-saving for many. I dreaded knowing that the news outlets would be covering this discriminatory bill and transgender children across Montana would be exposed to the hateful rhetoric espoused by supporters of the bill.

28. As a mother, I worried that I would not be able to protect Joanee from hearing the anti-transgender rhetoric circulating in the state and that other students would feel empowered to target her for hostile treatment at school. My heart sank worrying that the bill might pass and that my family might have to leave the state for safety concerns due to the growing hostile climate.

29. I attended or viewed all of the hearing committees for Montana Senate Bill 99 (“the Act”). I was floored by the medical inaccuracies that were being flouted by supporters of the bill. As a mother to a transgender child, it felt unfair and intrusive for these people without medical expertise to attempt to dictate both who my child is and what medical care she can access. I felt attacked as a parent to hear them use such volatile, inflammatory, and incorrect language as “mutilated” and “amputation” when referring to life-saving health care and to incorrectly say that my child’s situation is equal to the psychiatric condition of a dissociative disorder. It was abhorrent to me to hear them say a goal of this bill was protecting parental rights when they were stripping me of my right to guide my child’s healthcare, and also to say this bill was needed to “protect children” when, in fact, it will directly and severely harm my child. To me, it felt like the legislators created a public forum to spread both disinformation and misinformation.

30. I am terrified and hurt about the possibility of the Act going into effect. If the Act goes into effect it would impede my and my husband’s parental rights to seek out medically-necessary health care for our Joanne. I, in cooperation with my husband, spent countless hours and resources researching and meeting with health-care professionals from across the United States to determine the best course of care for our daughter. This was well within my parental rights and the Act would take the ability to make such decisions away from me. It would likewise rob Joanne of having parents who are empowered to act in her best interest.

31. It is unbearable to consider the mental health harm it would do to Joanne to know that her medically necessary, life-saving, health care was deemed illegal in her home state. I am afraid that it will send the message to her that her authenticity as a person is wrong and abhorrent. I fear that if the Act goes into effect, not only will she no longer be able to access her medical treatments, but that the anti-transgender rhetoric will capture more of the public discussion, empowering others to target her and bully her. I am afraid that such an environment would degrade her mental health and she will lose the joy and confidence that she has gained since starting treatment.
32. My biggest fear is that, if the lifesaving medication that Joanne receives were no longer accessible to her and she was forced to undergo male puberty, she would commit suicide.
33. For Joanne, stopping treatment is simply not an option. If the Act goes into effect, receiving care out of state may be our only option, which will either force our family to move or to spend additional resources to access care elsewhere.
34. Montana is our home and we do not want to be forced out of our home due to a law that serves no medically justifiable purpose. Most of my extended family—including my parents, my aunt, my sister and her family—lives in our town. Some of my family members have been here for over 30 years. The family support we have is unparalleled. Joanne has a large network of supportive friends. She is well-established and thriving in both her academics, her job, and her activities. To have to pull her from all of the love

and support she has would negatively emotionally impact her and the rest of the family. My son is also thriving and is deeply connected to his snowboard and soccer teams. My husband is a leader in the hospital where he works and I am well established in my career. The community we've built for ourselves is one that we love and do not wish to leave.

* * *

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

DATED this 16 day of July, 2023. Jane Doe.

Jane Doe