

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 PHOEBE CROSS

I, Phoebe Cross, hereby declare as follows:

1. I am a Plaintiff in this action. I offer this Declaration in support of Plaintiffs' Motion for Preliminary Injunction. I have personal knowledge of the facts set forth in this Declaration. I could and would testify competently to those facts if called as a witness.

2. I am 15 years old. I live in Bozeman, Montana, and just finished my freshman year in high school. I am involved in many activities, including playing the saxophone with the school band, speech and debate, and art. This year I qualified for and competed in The National Speech and Debate Tournament with my school's team.

3. I am transgender. I was assigned the gender designation of female at birth. My gender identity, however, is male.

4. Though I did not have the words to identify as transgender until I was much older, I have known I was not a female since preschool. I knew that it felt right to be the "dad" when I played house with friends.

5. I never felt aligned with anything traditionally female. Throughout childhood I expressed my gender identity in a traditionally male manner in, for example, the activities I participated in, the clothing I chose to wear, and the way I styled my hair.

6. For example, I only wore my hair in a ponytail because it made me feel like I had a traditionally male style of short hair. I always preferred a traditionally male style of clothing. One day, I even wore shorts under my sweatpants to mimic the feeling of wearing boxers.

7. I was persistently harassed in elementary school. I specifically remember receiving comments and jokes about my gender and gender expression. Over time, this prompted me to dress in a more traditionally feminine way, a manner in which I felt uncomfortable. The amount of positive comments I received when I dressed in this more traditionally feminine manner only served to further question my identity and dislike my body.

8. I have always experienced severe anxiety and agony related to being assigned female at birth. But the social affirmations I received when I dressed in a more traditionally female way coupled with the onset of puberty when I was 11 exacerbated my anxiety and my dysphoria became acute. There were uncountable number of times that I would cry when I woke up because I hated the feeling of having breasts. I did not know why I was experiencing such intense feelings related to my changing body and rationalized that it must be a normal part of puberty. This ultimately led to a deep depressive spiral that pushed me to incredibly dark places. This included attempts to take my own life and patterns of self-harm.

9. I did not see any representation of transgender individuals anywhere nor did I receive any education related to being transgender. All I knew about transgender individuals at that time was that they were frowned upon, and it was wrong to be like them. This made it even more difficult for me to figure out why I was having such intense feelings of dysphoria and made it harder come to terms with the fact that I was transgender.

10. Nonetheless, when I was in 6th grade, I told my friends that I did not identify as a girl, and aligned more with being nonbinary. I thought that coming out as nonbinary or genderqueer would be easier than saying I was trans and male, but deep down I always knew. Fortunately, my friends were incredibly accepting and supported me.

11. As puberty progressed and my body continued to change, my dysphoria worsened. In January 2022, when I was 14, and two years after telling my friends that I did not identify as a girl, I suffered an especially acute mental health crisis, resulting in the need for emergency medical treatment due to a suicide attempt. While the darkest and lowest point in my life, this experience is what forced me to come to terms with my identity as transgender. Soon after the attempt, I asked my parents about seeking out ways to further address my gender dysphoria and options to support my transition beyond socially transitioning.

12. Following this incident, my general practitioner referred me to a health care professional to discuss additional options for gender affirming care. After establishing care with this new health care professional, I was referred to a gender diversity specialist.

13. In July 2022, I was diagnosed with gender dysphoria and began the process of living and identifying as a male.

14. With the aid of medical and mental health professionals, I have taken certain steps to bring my body into conformity with my male identity. In September 2022 I began receiving gender-affirming care from Katy Mistretta. I was prescribed and began taking testosterone to treat my gender dysphoria.

15. For me, receiving gender-affirming care, including testosterone, has been a lifeline. It is what broke my spiral of depression and allowed me to actually enjoy life, not just live it. I directly link it to me being here today.

16. I continue to see a therapist, a D.N.P. specializing in gender-affirming care, and a psychiatrist, all of whom support my decision to go on testosterone and have determined this to be the best treatment.

17. I wish I would have received education about being transgender when I was younger so that I could have started receiving gender-affirming care earlier. Education alone would have been huge in preventing numerous issues I

still struggle with today. For example, I plan on ultimately getting top surgery, which is a mastectomy. This is a procedure that I would never had needed had I started puberty blockers- a treatment I could have received if I had the proper education on the issue and the ability to communicate my struggles.

18. Starting middle school, where sports were segregated by sex for the first time, my gender dysphoria soared. I lost all motivation to do the things I'd once excelled at and loved. I felt constant pain being in my body. Doing every day menial tasks, such as bending over and walking was a painful reminder of the body I was stuck in.

19. Before accessing gender-affirming care, I suffered from severe major depressive disorder and generalized anxiety. This led to me having panic attacks on a daily basis, something that prevented me from daily functioning. As a result I got a service dog in February 2022. My service dog is/was a key part of my support system. Without him I would not have left my house. Despite his importance, he was a way of coping with the pain my gender dysphoria caused, never a solution to the issue.

20. Since receiving gender-affirming care and taking testosterone, I feel immensely better just existing. As a baseline, I am so much happier. When I look in the mirror, I feel like I finally see my real self, someone that I actually recognize.

21. Testosterone saved my life and I would be devastated if this care was taken away. I cannot imagine what would happen to me if I could not access my gender-affirming care, but I fear that I would be back in a place where I was fearful of my life at every moment. Taking away this care would leave me fearful for my life.

22. My family does not wish to leave Bozeman. My family is immersed in the community and we have a strong network of supportive friends. I have a wonderful friend group that I adore, and a speech and debate team that means the world to me. I plan on continuing my high school career as a policy debater, which requires me staying in Montana, and I can see a bright future for myself—one that would be disrupted if I was forced to move in order to access care that keeps me alive. My family and I would be forced to decide between my safety and the relationships and plans firmly planted here, in Montana.

* * *

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

DATED this 13th day of July, 2023.



Phoebe Cross