

PFLAG, INC, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§

**IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS
459th JUDICIAL DISTRICT**

DECLARATION OF CAROL KOE

I, Carol Koe,¹ hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and fully capable of making this declaration. I have personal knowledge of the facts set forth in this declaration, they are true and correct, and I would testify competently to those facts if called to do so.

2. I am a member of PFLAG and reside in Texas with my son, Steve Koe.

3. My son is 13 years old. I love and support him and do everything I can to ensure he is happy and healthy.

4. Steve is in the 8th grade. He is very smart and does well in math and in English. He loves to read, draw, and listen to music. He also loves mechanics, and he likes to work with his hands by taking things apart and putting them back together. Steve works on cars with his dad. He loves cooking and baking and uses these as coping mechanisms. He also likes football and plays as both an offensive and defensive lineman.

¹ Carol Koe and Steve Koe are pseudonyms. My son and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence for seeking to protect our rights.

5. Steve is transgender. When he was born, he was assigned the sex of “female” at birth though he is a boy.

6. We are native Texans, and we have Mexican heritage on both sides of the family, with some ancestors living in our area before it was part of Texas. Steve’s father is very supportive of him, and we have a large extended family and they have been very supportive of Steve as well. We have lived in the same community for years.

7. A few years ago, Steve began to suffer from depression, and I noticed that he was not himself. I found a therapist for my son to receive treatment for his mental health. After a year of therapy, Steve’s mental health continued to deteriorate, and he attempted suicide. He was admitted to a local behavioral health treatment center and treated.

8. Right before this happened, Steve told me he is transgender. He shared with me that it was so difficult to consider coming out as transgender that taking his own life seemed like the only option. While at the treatment center, he also spoke with a physician who recommended he see a gender affirming therapist.

9. After being released, I sought out a gender affirming therapist and Steve’s pediatrician recommended an endocrinologist.

10. My son’s two therapists diagnosed him with gender dysphoria, and his endocrinologist and pediatrician recommended necessary medical treatment for Steve, including puberty blockers and hormones.

11. The effects of affirming who my son is have been remarkable. After facing so much depression and distress, he is finally himself again. During that difficult time, Steve had to be homeschooled, but he was finally able to return to public school. He enjoys playing football and

has been having a great school year. I have seen him make friends and laugh again. He is finally comfortable with himself and happy.

12. To further support my son, in June of 2022, we decided to pursue a legal name and gender marker change. In support of that petition, I filed paperwork in our home county indicating that medical professionals had recommended my son receive gender affirming medical care.

13. On the morning of August 30, 2022, my son was pulled out of class and called to the school office. He did not know why he was being asked out of class and worried that there was an emergency or something bad was happening to someone in our family. At the school office, he was put in a conference room with an investigator with the Texas Department of Family and Protective Services (“DFPS”). When the DFPS investigator contacted the school, she referred to my son by his birth name and sex assigned at birth.

14. My son had no idea why he was being interviewed, but the investigator told him that I was being investigated for “child abuse.” For nearly an hour, she asked my son personal questions about himself, his most intimate thoughts, his family, his diagnosis, his medical history, and current health care—all the while keeping him separated from his classmates and keeping him out of class. At one point, she asked him if he was taking any “performance enhancing drugs.” The investigator also asked Steve about his suicide attempt and told him that she would be coming to visit me and Steve’s father to continue her investigation. The investigator did not tell Steve whether she was recording the conversation and Steve does not know if a recording was made.

15. As soon as the interview was over, Steve was so upset that he could not go back to class. He called me immediately and told me that the DFPS investigator was on her way to my apartment. Steve told me he had a “melt down” and became very fearful and upset that something might happen to me or his dad because of who he is. Steve sought the assistance of a guidance

counselor at school and sat by himself in the school library until I could pick him up. He was so overwhelmed by what happened he could not go to class and has now missed class for three other days because of the stress and anxiety of the DFPS investigator questioning him, myself, and his father.

16. When the investigator arrived at my apartment, she first told me I was being investigated for “child abuse” for seeking testosterone treatment for my child and that it was “illegal” to do so. I told her that there was no such law in Texas and that I had only sought medically necessary care that was in the best interest of my child. She asked me similarly probing questions to the ones she asked my son about medical treatment, including which doctors he visits and what treatment he receives. The investigator asked me to sign medical release forms for Steve’s medical records, which I did. I have since hired attorneys to represent myself and my son. I revoked the medical release forms on Friday, September 2, 2022 and learned that my son’s doctors had almost given all of his medical records to DFPS.

17. After meeting with me for about 45 minutes, the investigator went directly to Steve’s father’s place of work and interviewed him for about the same amount of time, asking him similar personal questions.

18. Since this investigation started, Steve has had frequent panic attacks. This investigation has substantially disrupted my son’s education. Ever since being questioned by the DFPS investigator, Steve has been unable to fully return to class. The trauma of the investigation and returning to the location where he was interviewed have caused him to experience anxiety attacks and required me to pick him up early from school every day for three days after the interview. This is extremely upsetting given he has been doing so well in school this year both

socially and in his classes. The trauma this investigation has added to my son's life is unwarranted and unnecessary.

19. Steve's peers at school have also noticed his absences and asked questions about why Steve was so abruptly pulled out of class. This investigation has exposed my son to scrutiny at school and Steve now feels less safe in a learning environment where he used to thrive. I want what is best for my son and do not want him to be denied medically necessary treatment or targeted or investigated simply for being who he is.

20. On September 6, the DFPS investigator told my attorney in writing that she "was not referring to a law" regarding gender-affirming care when she interviewed me but was "asking [Carol Koe] if she was aware of the new regulations and practices recently passed." The investigator clarified that the allegation against me is for "physical abuse" relating to gender-affirming care.

21. I worry that this same experience could happen to other Texas families. My son has been doing so well and has so much love and support around him. This intrusion into our lives, our privacy, and my right as a parent to direct my child's upbringing has been disruptive and traumatic and I don't want other Texas families to go through a traumatic experience like ours. I worry that other parents will hesitate to seek out the care and support that their transgender children may need out of fear that someone will report them to DFPS if the threat for baseless investigations remains.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of September 2022 in Texas.

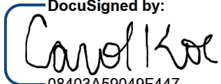
DocuSigned by:

08403A59049F447...
Carol Koe

EXHIBIT B

PFLAG, INC, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

**TRAVIS COUNTY, TEXAS
459th JUDICIAL DISTRICT**

SUPPLEMENTAL DECLARATION OF SAMANTHA POE

I, Samantha Poe,¹ hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and fully capable of making this declaration. I have personal knowledge of the facts set forth in this declaration, they are true and correct, and I would testify competently to those facts if called to do so.

2. I am a member of PFLAG and mother of an adolescent, Whitley, who is currently exploring the idea of transitioning and to whom I will refer using they/them pronouns.

3. We both reside in Texas along with my older child.

4. Whitley, who recently turned 14 years old and was assigned the sex of “male” at birth, is in midst of exploring what a social transition feels like. I love and support them and only want what is best for them.

5. Whitley is not receiving medical care related to gender identity.

6. I submitted a declaration in support of Plaintiffs’ original petition in this matter. In my June 6, 2022, declaration, I described my contact with the Texas Department of Family and

¹ Samantha Poe and Whitley are pseudonyms. My daughter and I are proceeding under pseudonyms to protect our right to privacy and ourselves from discrimination, harassment, and violence for seeking to protect our rights.

Protective Services (“DFPS”) as the agency investigated me for “child abuse” after receiving a report that I provide gender affirming health care to my child. I also described the resulting fears, anxiety, and disruption to my life and my family caused by the investigation.

7. As of today’s date, my DFPS case remains open, and I was recently contacted by DFPS with new requests of me and my child. These requests have caused further harm as DFPS’s investigation against me enters its seventh month.

8. I was first contacted by a DFPS Child Protective Services (“CPS”) investigator in late February 2022. Although I provided a letter to CPS from my child’s psychiatrist in early March 2022 confirming to DFPS that my child was not receiving any kind of medical care related to their gender identity, DFPS has not closed my case.

9. On August 25, my attorney spoke with someone from DFPS’s Office of General Counsel who made a new request that I consent for them to interview my child or, in the alternative, to provide proof Whitley is “well-adjusted.” These new requirements follow multiple requests by my attorney over the past few months for DFPS to close my case without additional requirements given the nature of the allegation and the fact that my child is not receiving medical care related to their gender identity.

10. These new requests follow numerous other attempts to unnecessarily intrude into my and my child’s privacy and interfere with my rights as a parent. At the outset of the investigation, DFPS requested an interview with my family. I did not consent due to the baseless nature of the allegation and my desire to protect my child, who, in early 2021, tried to take their own life due to past trauma, challenges around identity exploration, and societal expectations and response to their gender identity. I assumed that the investigation would be closed quickly, and I could protect my child from additional stress and worry about what might happen to me and

whether they would be removed from my care. Significantly, therapists working with my child warned me that having contact with DFPS and learning I was being investigated may destabilize and cause harm to Whitley, who, immediately prior to Governor Greg Abbott's Directive and Attorney General Ken Paxton's opinion regarding gender affirming health care for transgender minors, had been doing very well.

11. After I refused the request for a family interview, DFPS asked, alternatively, to do a "walk through" of my home. Again, I did not consent.

12. Shortly after these initial requests, I provided the March 2022 letter confirming my child was not receiving medical care related to their gender identity. After receiving the letter, a CPS investigator, without my prior knowledge, contacted a teacher at Whitley's middle school to ask about Whitley. The teacher told me they were contacted and that they told the investigator Whitley is well cared for and Whitley's every need is being met. My attorney contacted DFPS to ask about the status of the investigation on March 15, 16, and 22, April 4, and May 16 and 19 and received a "nothing to update" or "the matter needs to be staffed with a supervisor" in response.

13. In my mind there was no question that the case would then be closed, but after the Texas Supreme Court limited the temporary injunction in *Doe v. Abbott* to the plaintiffs in that case, on May 19, 2022, a CPS investigator contacted my attorney. The investigator asked me to schedule a "viewing" of Whitley by a CPS worker. I refused.

14. After the July 6 temporary injunction hearing in this case, my attorney contacted DFPS on July 9 and August 16 and asked them to close the investigation but did not receive a response to the July request. On August 21, she was contacted via email by an attorney from DFPS's Office of General Counsel and arranged a phone call for August 25. That person asked that I consent for someone from DFPS to see my child or for some third party to confirm they are

“well adjusted.” These requests come six months after confirmation my child is not receiving medical care and independent confirmation by one of Whitley’s teachers that they were doing well.

15. As I shared in my June 6 declaration, I had not informed Whitley about the DFPS investigation because it is wholly unwarranted, and I wanted to protect them. I felt conflicted and like I was in an impossible bind given I was betraying Whitley’s trust by withholding information.

16. With the investigation still looming and school about to start, I was concerned that Whitley might hear from someone at school about the investigation, CPS might contact them at school, or DFPS would again reach out to a teacher or principal. I wanted to make sure that if Whitley heard about the investigation, that they heard it from me first. On the advice of therapists and friends, I decided it best to be completely honest with Whitley given there was no end in sight to the investigation and it had been going on for so long.

17. After I told Whitley, they seemed worried but was, at least, encouraged by the fact that there are people helping our family stop the investigation. Very unfortunately, however, my initial concern (and one shared by Whitley’s therapist) about harm to Whitley if they were exposed to the investigation proved true. During the second week of school, two weeks after I told Whitley about the investigation, the school counselor called me to inform me that Whitley would need to come home due to expressing suicidal ideation “because of the investigation.” In addition to immediately arranging the care and therapeutic support they needed, I again attempted to console Whitley with the fact that we have many folks on our side and assured them that I will always be here for them.

18. I hope to see Whitley return to the happy, joyful child I know they can be. I don’t see a path forward to that place with DFPS continuing to pursue a baseless investigation and adding new demands unless the investigation is halted by this court.

19. If our family can still be under investigation, now more than six months after providing information that our child is not receiving medical care related to their gender identity, I continue to worry what that might mean for other transgender youth or youth who are exploring the idea of transitioning and their families who are the subject of unfounded allegations that they are harming their children.

20. I am very exhausted and frustrated at this point. This investigation has been so drawn out that I feel like it is never going to go away until either I give up my civil liberties or the state comes and takes them and my child. And most importantly, my child is now starting another school year with the uncertainty of this investigation surrounding their family – carrying a safety card and wondering if someone at school might report them. My biggest fear is they will start to blame themselves for the fact that I am at risk of being declared a “child abuser” because they are being true to who they are and because I support and love them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of September 2022 in Travis County, Texas.

DocuSigned by:

Samantha Poe

3CA948FE517149B...

Samantha Poe