

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PLAINTIFFS,

vs.

JUDGE JOSEPH W. KIRBY
Warren County Court of Common Pleas
Probate & Juvenile Division
900 Memorial Drive
Lebanon, OH 45036

Case No.

Judge:

COMPLAINT

INTRODUCTION

1. Plaintiffs are the parents of transgender minors in Warren County who sought, are seeking, or intend to seek to legally change their names pursuant to Ohio law.
2. This case arises out of the pattern and practice of Defendant, acting under the color of state law, of treating transgender minors differently from others similarly situated without a rational basis for doing so in violation of their equal protection rights under the Fourteenth Amendment to the United States Constitution.

PARTIES

3. Plaintiff [REDACTED] is an Ohio resident with a principal address at [REDACTED]
[REDACTED]
 - a. [REDACTED] are parents of a fifteen-year-old transgender teen, [REDACTED] whose legal name is currently [REDACTED].
 - b. [REDACTED] filed a petition in Warren County Probate-Juvenile Court for [REDACTED] name change on April 24, 2018. Both parents consented to the legal name change to reflect [REDACTED] correct gender identity after consulting with multiple medical professionals and discussing it with their child.
 - c. Judge Kirby denied [REDACTED] name change application on June 22, 2018. An appeal to the Ohio Twelfth District Court of Appeals has been filed.
4. Plaintiff [REDACTED] is an Ohio resident with a principal address at [REDACTED]
[REDACTED]
 - a. [REDACTED] are parents of a fifteen-year-old transgender teen [REDACTED]
[REDACTED]
 - b. [REDACTED] filed a petition in Warren County Probate-Juvenile Court for [REDACTED] name change on May 4, 2018. Both parents consented to the legal name change to reflect [REDACTED] correct gender identity after consulting with multiple medical professionals and discussing it with their child.
 - c. A hearing on [REDACTED] application for name change is set to be heard by Judge Kirby on August 14, 2018.
5. [REDACTED] is an Ohio resident with a principle residence at [REDACTED].
 - a. [REDACTED] is the sole legal parent of [REDACTED] a seventeen-year-old transgender teen. [REDACTED]
[REDACTED] is a rising senior in high school.

- b. [REDACTED] has consented to the legal name change to reflect [REDACTED] correct gender identity after consulting with multiple medical professionals and discussing it with her child.
 - c. [REDACTED] is planning to file a petition in Warren County Probate-Juvenile Court for a name change. [REDACTED] is fearful that she and her child will be subjected to an unfair and unconstitutional refusal to consider the name change application.
 - d. The disclosure of [REDACTED] identity will cause her child irreparable harm as this case involves matters of the utmost personal intimacy.
6. Defendant Joseph W. Kirby is a judge of the Warren County Common Pleas Court, Probate-Juvenile Division.
- a. Judge Kirby has a principal place of business at 900 Memorial Drive, Lebanon, OH 45036.
 - b. Judge Kirby is, at all relevant times, acting under color of law.

JURISDICTION AND VENUE

7. This case arises, in part, under the laws of the United States, specifically 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution. Accordingly, this Court has jurisdiction in this matter pursuant to 28 U.S.C. §§ 1331.
8. The declaratory relief sought in this matter is authorized by 28 U.S.C. §§ 2201 and Federal Rule of Civil Procedure 57.
9. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. § 1391. Defendant is a resident of the State in which this district is located and a substantial part of the events or omissions giving rise to the claim occurred in this district.

FACTS

NAME CHANGES FOR TRANSGENDER CHILDREN

10. Gender identity is a well-established medical and psychological term that refers to a person's fundamental, internal sense of their gender. Sex is the gender a person was assigned at birth, which correlates with genitalia. Gender identity matches the sex assigned at birth for most, but not all, people. Transgender people are people whose gender identity does not match their sex assigned at birth. Gender dysphoria is a diagnosis that applies to some, but not all, transgender people.
11. Transgender children typically consistently, persistently, and insistentlly feel and express a gender identity that is different from their sex assigned at birth. They may begin talking about their gender as soon as they begin to speak and some may express dissatisfaction with their genitals.
 - a. Transgender children are likely to experience gender dysphoria (i.e., distress related to their bodies not matching their gender identity). A pervasive, consistent, persistent and insistent sense of being another gender than the one assigned at birth and some degree of gender dysphoria are unique characteristics of transgender children. Transgender children may state that they are not their sex assigned at birth, or that someone (e.g., the doctor or a religious authority) made a mistake in their gender assignment.
 - b. The prevalence of children identifying as transgender is uncertain due to a lack of reliable data (i.e. fear of familial and societal rejection keeps some transgender people in the closet). Some studies estimate that 5 to 12% of girls and 2 to 6% of boys exhibit behavior traditionally inconsistent with their sex assigned at birth. Gender identification often begins around two years of age. The prevalence of gender identification through adolescence and adulthood is more likely to persist for individuals who first demonstrated gender dysphoria as toddlers.

12. Transgender adolescents typically consistently, persistently, and insistentlly feel and express a gender identity that is different from their sex assigned at birth. Transgender adolescents are likely to experience gender dysphoria. While many transgender adolescents have expressed their gender since they were old enough to talk, still many others do not realize their feelings about their gender until around puberty or even later.
 - a. Transgender adolescents often desire to make a social, legal, or medical gender transition while in school.
 - b. Transgender adolescents are not part of a “new” phenomenon. History suggests that they have existed in a wide range of cultures for thousands of years. Psychologists believe that by adolescence, a person’s gender identity is very resistant, if not immutable, to any type of intervention. The prevalence of transgender adolescents is uncertain. Some research suggests that transgender youth may be as prevalent as 0.5%.
 - c. Transgender adolescents may begin to seek therapy and consider hormone therapy and other methods to suppress the onset of puberty associated with their sex assigned at birth. Gender dysphoria that continues through the onset of puberty or increases at puberty is unlikely to desist. Early medical intervention to treat gender dysphoria is often recommended by medical professionals for these youth.
13. Numerous medical professionals have opined that living in a manner consistent with one’s gender identity is critical to the health and well-being of transgender people, including children and adolescents.
 - a. The process by which transgender people come to live in a manner consistent with their gender identity, rather than their birth-assigned sex, is known as transition.

- b. Social transition involves shifting one's presentation and social functioning so that it is consistent with one's gender identity. Social transition is a part of necessary medical treatment for many transgender people with gender dysphoria.
- 14. Transgender adolescents experience rates of anxiety, depression and suicide that are dramatically higher than those among cisgender (i.e. non-transgender) adolescents. This is most likely tied to years of discrimination, internal conflict and rejection from social environments. Transgender children experience victimization from peers, are often worried about puberty, may be hiding their identities outside their homes, and are aware that their bodies are different from the bodies of children of the gender with which they identify.
- 15. Transgender adolescents, like transgender adults, often experience discrimination, ranging from subtle to severe, when accessing housing, health care, employment, education, public assistance, and other social services. This discrimination often includes assuming a person's assigned sex at birth is fully aligned with that person's gender identity, not using a person's preferred name or pronouns, asking transgender people inappropriate questions about their bodies, or making the assumption that psychopathology exists given a specific gender identity or gender expression.
- 16. Studies have found that transgender adolescents, like transgender adults, are at risk of experiencing prejudice and discrimination in educational settings.
 - a. In a 2014 study, over half of transgender children in a K-12 setting reported verbal harassment and over one-fifth reported physical harassment based on their gender expression. (Kosciw, Greytak, Palmer, & Boesen, 2014).
 - b. In a 2011 study, approximately 15% of transgender adults reported prematurely leaving educational settings ranging from kindergarten through college as a result of harassment (Grant et al., 2011). This study found that, as a result of discrimination and education

disparities, transgender people were substantially more likely to have a household income of less than \$10,000.

- c. A 2011 study has suggested that employment discrimination for transgender people may be related to stigma based on a transgender person's appearance, discrepancies in identity documentation, or being unable to provide job references linked to that person's pre-transition name or gender presentation. (Bender-Baird, 2011).

17. Social transitioning is important to transgender adolescents and can alleviate some of the risks and harms faced by transgender people.

- a. Once children are old enough to know that they identify with a gender different from the one they were born with, current medical thinking supports a "social transition" that includes the use of pronouns that matched the child's gender identity, calling them by the name of their choosing and allowing them to change their hairstyle and clothing to reflect their identity
- b. A recent study published in journal Pediatrics, found normal levels of depression and only slightly elevated anxiety levels in transgender children who were supported by their families in a social transition, including calling them by the name of their choosing.

18. Calling transgender children by the name of their choosing is likely to alleviate the harm caused by discrimination in accessing housing, health care, employment, education, public assistance, and other social services.

19. A legal name change is necessary to allow transgender children full access to housing, health care, employment, education, public assistance, and other social services.

- a. Government and social service agencies often require a legal name change. Transgender children often face difficulties when presenting legal documents that don't match their chosen name or gender identity.

- b. In order to update the name and/or gender on an Ohio ID or driver's license, a transgender person must submit a court order certifying the name change. If changing only the gender marker, a BMV Declaration of Gender Change form signed by a physician or psychologist/licensed therapist certifying the applicant's gender identity may be submitted.
- c. Ohio recently enacted new guidelines to obtain a state-issued driver's license or other credential for access to federal facilities or services, such as airport security screening by the Transportation Safety Administration. Ohio residents seeking such a document are required to provide documentation proving their name and date of birth, such as a Social Security card, birth certificate or passport and additional documents proving residential address.
 - i. If a resident's current name is not the same as the name listed on a resident's birth certificate, a resident must provide a certified copy of a court order granting the name change in order to obtain a compliant identification.
 - ii. The State of Ohio refuses to correct the gender markers on transgender people's birth certificates regardless of what steps a person may have taken in order to obtain recognition of their gender identity. A number of transgender people have challenged the constitutionality of this refusal in this Court. *Ray v. Himes*, S.D. Ohio No. 2:18-cv-00272-MHW.

20. Many transgender people are typically perceived by others accurately and consistent with their gender identity. A transgender person who has official documents, such as a driver's license or school records, with an incorrect name is burdened with an identity that conflicts not only with the person's gender, but also with how others perceive the person. A mismatch between a transgender person's chosen name, gender identity, or name on official documents can subject

that person to harms, including interference with the person's ability to pass background checks and obtain benefits that persons without such a mismatch routinely enjoy.

21. Denying transgender people the ability to change their names to a name that matches their gender identity reveals private information in contexts where this information would otherwise remain undisclosed (e.g., at a new job), regardless of whether a person's transgender identity may otherwise be known by others (e.g., to friends or family), and regardless of a person's desire not to disclose that personal information.

- a. Transgender people denied the ability to change their names are deprived of significant control over the circumstances surrounding disclosure of their transgender identity, including when, where, how, and to whom their transgender identity is disclosed.
- b. The ability to exercise control over the circumstances surrounding disclosure of their transgender identity, including when, where, how, and to whom their transgender identity is disclosed, is important because transgender people are often subjected to violence or harassment.

22. To obtain a legal name change in Ohio, an applicant must submit a petition to the court.

- a. Ohio Rev. Code § 2717.01 provides that at least 30 days before the hearing, the applicant must publish notice of the hearing in a newspaper, though publication requirements can be waived for the applicant's personal safety.
 - i. Depending on the nature of the offense, applicants with prior criminal convictions may not be eligible for a name change.
 - ii. An application for change of name may be made on behalf of a minor by either of the minor's parents, a legal guardian, or a guardian ad litem.

- b. The statute provides that that if the facts set forth in the application show reasonable and proper cause for changing the name of the applicant, the court may order the change of name.
- c. The Ohio Supreme Court has instructed that when deciding whether to permit a name change for a minor child pursuant to R.C. 2717.01(A), a court must consider the best interest of the child in determining whether reasonable and proper cause has been established. *In re Willbrite*, 85 Ohio St.3d 28, 32, 1999-Ohio-201.
 - i. Most of the factors, however, that the court is to consider deal with the change of a minor child's surname, not first name, and, as a result, have no relevance to the name change of a transgender child. These name change requests typically arise in the context of divorce or custody proceedings.
 - ii. The Ohio Supreme Court in *In re Willbrite* said:

[I]n determining whether a change of a minor's surname is in the best interest of the child, the trial court should consider the following factors: the effect of the change on the preservation and development of the child's relationship with each parent; the identification of the child as part of a family unit; the length of time that the child has used a surname; the preference of the child if the child is of sufficient maturity to express a meaningful preference; whether the child's surname is different from the surname of the child's residential parent; the embarrassment, discomfort, or inconvenience that may result when a child bears a surname different from the residential parent's; parental failure to maintain contact with and support of the child; and any other factor relevant to the child's best interest.

- d. In the context of name changes unrelated to a child's surname, Ohio courts have held:

A court should deny a change of name if the change would involve a potential for fraud, if it would interfere with the rights of others, if the change would permit the applicant to avoid a legal duty, or if the change was in some way contrary to the strong public policy of the state.

In re Wurgler, 136 Ohio Misc.2d 1, 2005-Ohio-7139, ¶ 11.

- 23. There is no government justification to support a refusal to provide transgender children with a name change as part of social transitioning.

PLAINTIFFS NAME CHANGE APPLICATION

24. [REDACTED]

25. Both parents consented to the legal name change to reflect [REDACTED] correct gender identity after consulting with multiple medical professionals and discussing it with their child.

a. [REDACTED] sought medical treatment due to anxiety and depression. He is now under the care of [REDACTED] at the Cincinnati Children's Medical Center and [REDACTED] an LPCC from the Lindner Center.

b. [REDACTED] strongly supports the petition for [REDACTED] legal name change because changing his legal name is a critical component to mitigate depression, anxiety, and suicidal ideations/attempts often present in the transgender population.

c. [REDACTED] sought a name change because his legal name is on numerous documents at school, which "outs" him to staff and students. His legal name will also be on his passport, driver's license, college applications, etc.

d. [REDACTED] is not seeking the name change for purposes of fraud. [REDACTED] name change would not interfere with the rights of others or permit [REDACTED] to avoid a legal duty. [REDACTED] name change is not contrary to the strong public policy of the state of Ohio.

26. [REDACTED] appeared for a hearing before Judge Kirby on June 18, 2018. A transcript of the hearing is attached as Exhibit A.

a. [REDACTED] explained to the court that she believed, based on the advice she had received from medical professionals, that a name change was in [REDACTED] best interest:

MS. [REDACTED] Um, we have been going to therapy for about a year now, and, and, we are, um we've been to Children's Hospital and, un, gone through all of the uh things that we feel like we should go through, and, we're convinced that it's in [REDACTED] best interest to change his name.

THE COURT: Was there a diagnosis of . . . ? . . .

MS. [REDACTED] Gender Dysphoria

(Tr. p. 5-6.)

b. [REDACTED] also had a letter from a medical professional explaining the treatment being received by [REDACTED] (Tr. p. 6.) [REDACTED] told Judge Kirby, “we have gone through a lot of therapy to convince us that it’s not just a passing phase or fad.” (Tr. p. 15.)

c. [REDACTED] explained to Judge Kirby that [REDACTED] school, although supportive, is unable to change permanent records without a court order approving the name change. [REDACTED] testified:

[REDACTED] The school can’t change my name in, um, the system like on their computers, and, so without it being like legally changed. So all the substitutes get the old list where my name is my birth name and, just all legal documents, and, prescriptions, and everything has to have my birth name on it.

(Tr. p. 18.) [REDACTED] Judge Kirby that the name change was necessary for college applications and “emergency situations.” (Tr. p. 19.)

d. Judge Kirby made a number of inquiries concerning the history of [REDACTED] expression of his gender and asked about [REDACTED] counseling and potential hormone treatment. (Tr. p. 11, 14.)

e. Judge Kirby asked personal and irrelevant questions, such as whether [REDACTED] was considering gender reassignment surgery or whether he was sexually attracted to women. (Tr. p. 18, 22.) Judge Kirby also asked a series of questions about which restroom [REDACTED] used at school:

THE COURT: . . . I am not allowed into a female’s restroom, right? I mean it’s just, I would probably get in trouble or at least called out on it if I did, okay. Is the same as true if somebody who associates themselves as male? Uh, can she go into the male’s restroom?

MS. [REDACTED] uses an, um, non-gendered bathroom.

(Tr. p. 20.)

f. Judge Kirby suggested that [REDACTED] expression of his gender identity was not sincere but, instead, was the result of exposure of media coverage of the transition by Caitlyn Jenner.

THE COURT: Well explain to me the process? When did you, uh, when did Heidi come to you and tell you that she, she associates herself as a boy?

MS. [REDACTED]: About a year, and, a half ago

MR. [REDACTED]: In, in August

MS. [REDACTED]: Yes.

MR. [REDACTED]: It was actually last August.

THE COURT: Kind of when he [Caitlyn Jenner] made the papers, and, everybody was, was, doing it kind of thing?

MS. [REDACTED]: No I don't believe so.

THE COURT: Was it about the time that it kind of made headlines about a year, and, a half ago? . . . Everybody was talking about all the transgender transformations were coming out in the paper?

(Tr. p. 6-7.) Later in the hearing, Judge Kirby returned to this line on inquiry:

THE COURT: So a year, and, a half your parents knew, and, the world knew, how long have you known?

[REDACTED]: Um, there's always been like a feeling of distress about it like from as far back as I can remember really . . . But then around when I learned that you can be transgender I, I kind of clicked, and, you know I was like that's what I was like upset about. That I wanted to be a boy but I couldn't.

THE COURT: That's what I was referring to a couple years ago when it hit the papers, and, people were starting, they were identifying themselves or associating themselves with it. Uh, because it was not something that people were talking about.

[REDACTED]: I guess that never struck me because I've known transgender people since I was a kid . . .

THE COURT: But weren't they just known as cross-dressers back then or did they actually go through the physical? . . . I just look at Bruce Jenner set the stage nationally for it, maybe even . . . [a]ll over the world.

(Tr. p. 22-23.)

27. Judge Kirby denied [REDACTED] change application on June 22, 2018 stating that they cannot apply for a name change again until the minor becomes an "adult." A copy of the decision denying the name change is attached as Exhibit B.

a. In his decision, Judge Kirby said:

The Court is sympathetic to the parents of the child and their desire to assuage their child. In essence, the Court isn't say "no" to the name change. The Court is simply saying "not yet."

Age.

Develop.

Mature.

And take advantage of your common-law right to use the name you are petitioning for in the meantime, so long as it's not for fraudulent purposes.

- b. In his decision, Judge Kirby did not find that the name change would involve a potential for fraud, it would interfere with the rights of others, would permit the applicant to avoid a legal duty, or was in some way contrary to the strong public policy of the state
28. [REDACTED] filed for [REDACTED] name change on May 4, 2018. A hearing is scheduled on the application; no decision has been rendered.
29. Both parents consented to the legal name change to reflect [REDACTED] correct gender identity after consulting with multiple medical professionals and discussing it with their child.
- a. [REDACTED] sought medical treatment due to anxiety and depression. He is now under the care of [REDACTED] at the Cincinnati Children's Medical Center and [REDACTED] a clinical psychologist.
 - b. Dr. [REDACTED] strongly supports the petition for [REDACTED] legal name change because changing his legal name is a critical component to mitigate depression, anxiety, and suicidal ideations/attempts often present in the transgender population. Dr. [REDACTED] states that [REDACTED] "consistently presents himself as male in all settings including work, school and with family and friends." Dr. [REDACTED] also conducted a biopsychosocial assessment and determined that there is no significant impairment in [REDACTED] insight, impulsivity, or decision-making ability.
 - c. [REDACTED] sought a name change because his legal name is on numerous documents at school, which "outs" him to staff and students. His legal name will also be on his passport, driver's license, college applications, etc.
 - d. [REDACTED] is not seeking the name change for purposes of fraud. [REDACTED] name change would not interfere with the rights of others or permit [REDACTED] to avoid a legal duty. [REDACTED] name change is not contrary to the strong public policy of the state of Ohio.

30. [REDACTED] intends to file to a [REDACTED] name change in Warren County Common Pleas court.
- a. [REDACTED] sought medical treatment due to anxiety and depression. [REDACTED] is now under the care of [REDACTED] at the Cincinnati Children's Medical Center. [REDACTED] has been living as the correct gender identity and going by their new name since 2015.
 - b. [REDACTED] strongly supports the petition for [REDACTED]'s legal name change because changing their legal name is a critical component to mitigate depression, anxiety, and suicidal ideations/attempts often present in the transgender population.
 - c. [REDACTED] seeks a legal name change because their legal name is on numerous documents at school, which "outs" them to staff and students. [REDACTED] legal name will also be on their passport, driver's license, college applications, etc.
 - d. [REDACTED] is not seeking the name change for purposes of fraud. [REDACTED] name change would not interfere with the rights of others or permit [REDACTED] to avoid a legal duty. [REDACTED] name change is not contrary to the strong public policy of the state of Ohio.
31. [REDACTED] has not filed for the name change because she fears unequal and embarrassing treatment by Judge Kirby.

PATTERN AND PRACTICE

32. Judge Kirby has a pattern and practice of treating name change requests from transgender adolescents differently than other name change requests.
33. On the same day that Judge Kirby denied [REDACTED] name change request, Judge Kirby denied two other transgender teen name change applications See Warren Count No. 2018-1955; Warren County No.. 2018-9045. Redacted copies of these decisions are attached as Exhibits C and D. Judge Kirby used identical language in denying all of the name change requests from transgender adolescents.

34. The name change applications review by the Warren County Common Pleas Court, Probate-Juvenile Division, in 2018 are summarized in this table:

<u>Case #</u>	<u>File Date</u>	<u>Disposition</u>	<u>Transgender</u>	<u>Hearing Officer</u>
20189085	5/21/2018	Granted	No	Magistrate
20189084	5/16/2018	Granted	No	Magistrate
20189083	5/11/2018	Granted	No	Magistrate
20189082	5/10/2018	Granted	No	Magistrate
20189078	5/4/2018	Granted	No	Magistrate
20189077	5/2/2018	Granted	No	Magistrate
20189076	5/2/2018	Granted	No	Magistrate
20189075	4/25/2018	Granted	Transgender (Adult)	Judge Kirby
20189073	4/24/2018	Denied	Transgender Minor	Judge Kirby
20189069	4/12/2018	Granted	No	Magistrate
20189061	3/30/2018	Granted	No	Magistrate
20189060	3/30/2018	Granted	No	Magistrate
20189059	3/30/2018	Granted	Transgender (Adult)	Judge Kirby
20189055	3/27/2018	Denied	Transgender Minor	Judge Kirby
20189054	3/23/2018	Granted	No	Magistrate
20189052	3/21/2018	Granted	Transgender (Adult)	Judge Kirby
20189050	3/19/2018	Granted	No	Magistrate
20189049	3/19/2018	Granted	No	Magistrate
20189045	3/13/2018	Denied	Transgender Minor	Judge Kirby
20189043	3/9/2018	Granted	No	Magistrate
20189042	3/6/2018	Granted	No	Magistrate

<u>Case #</u>	<u>File Date</u>	<u>Disposition</u>	<u>Transgender</u>	<u>Hearing Officer</u>
20189040	3/5/2018	Granted	No	Magistrate
20189039	3/5/2018	Granted	No	Magistrate
20189036	3/2/2018	Granted	No	Magistrate
20189035	3/2/2018	Granted	No	Magistrate
20189034	3/2/2018	Granted	No	Magistrate
20189030	2/23/2018	Denied	No	Magistrate
20189028	2/21/2018	Granted	Transgender Minor	Magistrate
20189026	2/15/2018	Granted	Transgender (Adult)	Judge Kirby
20189016	2/5/2018	Granted	Transgender (Adult)	Judge Kirby
20189015	2/2/2018	Granted	Transgender (Adult)	Judge Kirby
20189013	1/26/2018	Granted	No	Magistrate
20189009	1/19/2018	Granted	No	Magistrate
20189005	1/5/2018	Granted	No	Magistrate
20189002	1/2/2018	Granted	No	Magistrate
20189001	1/2/2018	Granted	No	Magistrate

35. A review of the 2018 name change applications by the Warren County Common Pleas Court, Probate-Juvenile Division, in 2018, shows that Judge Kirby has a pattern and practice of treating name change applications by adolescents differently than other name change applications.

- a. On information and belief, Judge Kirby has instructed that all name change applications from transgender persons be assigned to his docket for a hearing. Typically, name change application hearings are conducted by a magistrate judge. Judge Kirby has not conducted any name change hearings for non-transgender individuals.

- b. In 2018, Judge Kirby has denied each and every name change applications by transgender adolescents when he conducted the hearing. The only name change application by a transgender adolescent approved by the Warren County Common Pleas Court, Probate-Juvenile Division in 2018 was after a hearing conducted by a magistrate judge.
36. On information and belief, Judge Kirby has demonstrated animosity towards transgender adolescents seeking a name change without any rational basis.
- a. Judge Kirby has ignored evidence presented by the parties from medical professionals suggesting that the name change is in the best interest of the child. Instead, Judge Kirby has substituted his own archaic views.
 - a. The questioning by the Court in the Whitaker matter demonstrates that Judge Kirby is unwilling to accept the view of professionals that gender identity may be expressed by adolescents and that by adolescence, a person's gender identity is very resistant to any type of intervention. Instead, Judge Kirby expressed a belief – based on no evidence in the record – that the adolescents seeking a name change are motivated because they saw Caitlyn Jenner on television.
 - b. Judge Kirby is not making an individualized determination about the best interest of each child but, instead, is motivated pre-existing notions about towards transgender individuals. Instead, Judge Kirby relied on sex stereotyping based on a perception that the behavior of transgender adolescents transgresses gender stereotypes.
 - c. Judge Kirby did not make any findings that the name changes sought by transgender adolescents would involve a potential for fraud, would interfere with the rights of others, would permit the applicant to avoid a legal duty, or were in some way contrary to the strong public policy of the state of Ohio.

37. Judge Kirby's actions against are causing, or are likely to cause, substantial, immediate, and continuing damages to Plaintiffs' children because changing their legal names is a critical component to mitigate depression, anxiety, and suicidal ideations/attempts.

**COUNT I
(DECLARATORY JUDGMENT – VIOLATION OF EQUAL PROTECTION
PROVISIONS OF UNITED STATES CONSTITUTION)**

38. Plaintiff repeats and incorporates all of the allegations of this Complaint, as if fully set forth herein.

39. The Fourteenth Amendment to the United States Constitution provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

40. Judge Kirby has facially and intentionally discriminated against transgender people based on sex. By not permitting transgender adolescents to use a name that fits their gender identity, the court in maintaining a classification reflecting sex contrary to their gender identity, causing harm as a result.

41. Discrimination based on sex-related considerations also includes, but is not limited to, discrimination based on gender nonconformity, gender identity, transgender status, and gender transition.

42. Plaintiff, acting as individual "classes of one" have been treated by the Defendant differently from others similarly situated without a rational basis for doing so. Judge Kirby violated the Equal Protection Clause's prohibition against sex-based discrimination when the judge treated transgender adolescents unfavorably because of their gender identity.

43. Discrimination because a person is transgender is discrimination based on a sex-related consideration, which requires courts to apply intermediate scrutiny when evaluating the constitutionality of Judge Kirby's actions.

44. Alternatively, discrimination because a person is transgender requires courts to apply strict scrutiny when evaluating the constitutionality of Judge Kirby's actions. Government discrimination against

transgender people because of their transgender identity bears the indicia of a suspect classification requiring strict scrutiny by the courts. Transgender people have suffered a long history of extreme discrimination and continue to suffer such discrimination to this day. Transgender people are a discrete and insular group and lack the political power to protect their rights through the legislative process. Transgender people are a relatively small minority, and have had limited success securing express federal, state, and local protections specifically protecting them against discrimination, and have been and continue to be regularly targeted by anti-transgender legislation, regulations, bills, and other government action.

45. Judge Kirby has facially and intentionally discriminated against the Plaintiffs in violation of the Equal Protection guarantees of the 14th Amendment on the basis of sex and transgender status by depriving transgender adolescents the ability to change their name. Non-transgender adolescents are not deprived of this ability to change their names.
46. Defendant's actions deny transgender people, including Plaintiffs, access to legal documents and the ability to legally change their names. Defendant's refusal to allow transgender children to change their legal name erects a barrier to the full recognition, participation, and inclusion of transgender people in society and subjects them to discrimination, privacy invasions, harassment, humiliation, stigma, harm to their health, and even violence.
47. Plaintiffs are entitled to a declaratory judgment that Judge Kirby has violated Plaintiffs' right to Equal Protection guaranteed by the Fourteenth Amendment to the United States Constitution.
48. Pursuant to 42 U.S.C. §1988, Plaintiffs are entitled to her attorney's fees incurred in bringing this action.

COUNT II
(DECLARATORY JUDGMENT -- 42 U.S.C. §1983)

49. Plaintiffs repeat and incorporate all of the allegations of this Complaint, as if fully set forth herein.

50. Judge Kirby violated the Equal Protection Clause's prohibition against sex-based discrimination when the judge treated transgender adolescents unfavorably because of gender non-conformity.
51. Plaintiffs are entitled to a declaratory judgment that Judge Kirby has violated 42 U.S.C. §1983.
52. Pursuant to 42 U.S.C. §1988, Plaintiff is entitled to her attorney's fees incurred in bringing this action.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

- Judgment Declaring that Defendant has violated Plaintiffs' right to Equal Protection guaranteed by the Fourteenth Amendment to the United States Constitution and prohibiting further violations.
- Judgment Declaring that Defendant has violated 42 U.S.C. §1983 and prohibiting further violations.
- Court costs and other reasonable expenses incurred in maintaining this action, including reasonable attorney's fees as authorized by 42 U.S.C. §1988.

Respectfully submitted,

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