25-0952-cv

United States Court of Appeals

for the

Second Circuit

JENNIFER VITSAXAKI,

Plaintiff-Appellant,

– v. –

SKANEATELES CENTRAL SCHOOL DISTRICT, SKANEATELES CENTRAL SCHOOLS' BOARD OF EDUCATION,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

BRIEF OF ADVANCING AMERICAN FREEDOM, INC.; AFA ACTION, INC.; AMERICAN ASSOCIATION OF SENIOR CITIZENS; AMERICAN ENCORE; AMERICAN VALUES; DELEGATE LAUREN ARIKAN, MARYLAND DISTRICT 7B; ARIZONA WOMEN OF ACTION; ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL;
(For Continuation of Midline See Inside Cover)

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

The amici curiae Advancing American Freedom, Inc.; AFA Action, Inc.; American Association of Senior Citizens; American Encore; American Values; Delegate Lauren Arikan, Maryland District 7B; Arizona Women of Action; Association of Christian Schools International; Association of Mature American Citizens; E. Calvin Beisner, Ph.D., Memphis, Tennessee; Center for Political Renewal (CPR); Center for Urban Renewal and Education (CURE); Delegate Brian Chisholm, Maryland District 31; Christian Law Association; Christian Medical & Dental Associations; Coalition for Jewish Values; Eagle Forum; Eagle Forum of Georgia; Family Institute of Connecticut Action; Frontline Policy Council; Idaho Freedom Foundation; Independent Women's Law Center; Intercessors for America; International Conference of Evangelical Chaplain Endorsers; James Dobson Family Institute; JCCWatch.org; Tim Jones, Former Speaker, Missouri House, Chairman, Missouri Center-Right Coalition; Lutheran Center for Religious Liberty; Men and Women for a Representative Democracy in America, Inc.; Moms for Liberty; National Apostolic Christian Leadership Conference; National Association of Parents (d/b/a "ParentsUSA"); National Center for Public Policy Research; National Religious Broadcasters; Delegate Ryan Nawrocki, Maryland District 7A, MDFC Whip; New Jersey Family Policy Center; New York State Conservative Party; New Mexico Family Action Movement; Noah Webster Educational Foundation; North

Carolina Values Coalition; Pennsylvania Eagle Forum; John Shadegg, Member of Congress, 1995-2010; 60 Plus Association; Paul Stam, Former Speaker Pro Tempore, North Carolina House; Stand for Georgia Values Action; Students for Life of America; Delegate Kathy Szeliga, Maryland District 7A, MDFC Vice Chair; The Justice Foundation; Tradition, Family, Property, Inc.; Bob Vander Plaats, President/CEO, The Family LEADER; The Honorable David Weldon, M.D.; Women for Democracy in America, Inc.; Yankee Institute; Young America's Foundation; and Young Conservatives of Texas are nonprofit corporations. They do not issue stock and are neither owned by nor are they owners of any other corporate entity, in part or in whole. They have no parent companies, subsidiaries, affiliates, or members that have issued shares or debt securities to the public. The corporations are operated by volunteer boards of directors.

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STATEMENT OF INTEREST OF *AMICI CURIAE*

Advancing American Freedom (AAF) is a nonprofit organization that promotes and defends policies that elevate traditional American values, including parental rights.[1] AAF "will continue to serve as a beacon for conservative ideas, a reminder to all branches of government of their responsibilities to the nation,"[2] and believes that the Constitution's protections of parental rights have been established beyond debate as an enduring American tradition. AAF is deeply concerned about the nationwide pattern of school officials concealing from parents efforts to encourage social gender "transition" among their children and the message that sends to children that parents' views are lesser if they do not conform to the educational establishment's groupthink.[3] AAF files this brief on behalf of its 6,176 members in the Second Circuit including 4,975 members in the state of New York.

Amici AFA Action, Inc.; American Association of Senior Citizens; American Encore; American Values; Delegate Lauren Arikan, Maryland District 7B; Arizona Women of Action; Association of Christian Schools International; Association of

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[1] No counsel for a party authored this brief in whole or in part. No person other than *Amicus Curiae* and its counsel made any monetary contribution intended to fund the preparation or submission of this brief. Defendants-Appellees declined AAF's request for consent to file this brief of amicus curiae.

[2] Edwin J. Feulner, Jr., *Conservatives Stalk the House: The Story of the Republican Study Committee*, 212 (Green Hill Publishers, Inc. 1983).

[3] "Liberals claim to want to give a hearing to other views, but then are shocked and offended to discover that there are other views." William F. Buckley, Jr., *On the Inculcated and the Inculcators*, National Review (Jan. 11, 1956) https://www.nationalreview.com/1956/01/onthe-inculcated-and-the-inculcators/.

Mature American Citizens; E. Calvin Beisner, Ph.D., Memphis, Tennessee; Center for Political Renewal (CPR); Center for Urban Renewal and Education (CURE); Delegate Brian Chisholm, Maryland District 31; Christian Law Association; Christian Medical & Dental Associations; Coalition for Jewish Values; Eagle Forum; Eagle Forum of Georgia; Family Institute of Connecticut Action; Frontline Policy Council; Idaho Freedom Foundation; Independent Women's Law Center; Intercessors for America; International Conference of Evangelical Chaplain Endorsers; James Dobson Family Institute; JCCWatch.org; Tim Jones, Former Speaker, Missouri House, Chairman, Missouri Center-Right Coalition; Lutheran Center for Religious Liberty; Men and Women for a Representative Democracy in America, Inc.; Moms for Liberty; National Apostolic Christian Leadership Conference; National Association of Parents (d/b/a "ParentsUSA"); National Center for Public Policy Research; National Religious Broadcasters; Delegate Ryan Nawrocki, Maryland District 7A, MDFC Whip; New Jersey Family Policy Center; New York State Conservative Party; New Mexico Family Action Movement; Noah Webster Educational Foundation; North Carolina Values Coalition; Pennsylvania Eagle Forum; John Shadegg, Member of Congress, 1995-2010; 60 Plus Association; Paul Stam, Former Speaker Pro Tempore, North Carolina House; Stand for Georgia Values Action; Students for Life of America; Delegate Kathy Szeliga, Maryland District 7A, MDFC Vice Chair; The Justice Foundation; Tradition, Family, Property,

Inc.; Bob Vander Plaats, President/CEO, The FAMiLY LEADER; The Honorable David Weldon, M.D; Women for Democracy in America, Inc.; Yankee Institute; Young America's Foundation; and Young Conservatives of Texas believe that the fundamental right of parents to direct the upbringing of their children is essential to liberty and is deeply rooted in American tradition and practice.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

When parents send their children to school, they expect their children to be educated, not to have their authority undermined by willful school employees. Yet, in this case, that is exactly what happened. Plaintiff-appellant Jennifer Vitsaxaki sued the officials of Skaneateles Central School District and Skaneateles Central Schools' Board of Education (collectively, "the School District") after they facilitated her daughter's use a new name and incorrect pronouns. *Vitsaxaki v. Skaneateles Central School District*, 5:24-cv-00155, slip op. at 5 (N.D.N.Y. Mar 20, 2025) ECF No. 32. Further, by continuing to refer to their daughter by her real name and correct pronouns when speaking with her parents, the school's officials sought to hide their activity from her parents. *Id*. at 3. These actions of the school violated Mrs. Vitsaxaki's fundamental, constitutionally recognized right to direct the upbringing of her daughter. This Court should rule for Mrs. Vitsaxaki and ensure that the rights of parents in the Second Circuit are secure.

Mrs. Vitsaxaki's daughter began experiencing anxiety at school when she was in the fifth grade. *Id*. at 5-6. In seventh grade, she "began to have questions about gender identity," and ultimately asked the school guidance counselor that she be referred to by a name different from her birth name and by "different pronouns." *Id*. at 6. School officials complied with this request but continued to use Mrs. Vitsaxaki's daughter's real name and correct pronouns when speaking with her parents in a deliberate attempt to conceal her social transition from them. *Id*. at 7.

The school's efforts were consistent with the district's gender policy and were part of a general agenda. The school's social worker "began hosting an 'LGBTQ club' during the students' lunch hour" during which she "discussed the concepts of socially and medically transitioning one's gender with students."[4] When Mrs. Vitsaxaki noticed that her daughter's grades were declining and that she was distracted from her studies, Mrs. Vitsaxaki expressed her concerns to school officials who "dismissed" them, telling her that "nothing out of the ordinary was happening

[4] So-called "medical transition" involves chemical and surgical interventions that are scientifically dubious in general, and which have rightly been banned for children in 25 states, with two more banning surgical "transition." Lindsey Dawson, Jennifer Kates, *Policy Tracker: Youth Access to Gender Affirming Care and State Policy Restrictions*, Kaiser Family Foundation, https://www.kff.org/other/dashboard/gender-affirming-care-policy-tracker/ (May 27, 2025). School officials have no authority to broach such topics with children without, at a minimum, parental knowledge and consent. Was the school social worker informing these middle schoolers, for example, about the risks of infertility, among many others, from chemical and surgical transition? *See, e.g.*, *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices*, at 112-114, 122, Department of Health and Human Services (May 1, 2025). *See also*, *The Cass Report*, National Health Service (April 2024) available at: https://webarchive.nationalarchives.gov.uk/ukgwa/20250310143933/https://cass.independent-review.uk/home/publications/final-report/.

at school that might be affecting [her daughter's] academic performance or mental health." *Id*. at 8. Even after learning of what had been happening and switching her daughter to online schooling, Mrs. Vitsaxaki was not informed that school officials continued to meet with her daughter "to discuss gender identity." *Id*. at 3.

Parents have the fundamental right, recognized by the Constitution, to "direct the education and upbringing of" their children. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). That right prohibits schools from substituting for a parent's, their moral judgements about what is best for a child and from concealing important decisions about the child's upbringing from his or her parents.

The school's utter disregard for Mrs. Vitsaxaki's parental authority is inconsistent with the most basic moral norms upon which our society is based. Unless school officials are prepared to make a claim that a child is being abused as defined by law, they have no right to insert themselves between parents and their children. The school's actions in this case directly conflict with one of the most ancient liberties of parents: to direct the upbringing, education, and care of their children. The Court should rule in favor of Plaintiff-Appellant.

ARGUMENT

I. The Supreme Court has Recognized the Fundamentality of Parental Rights in the Education and Raising of Children.

The United States Supreme Court has consistently recognized that a parent's liberty interest in child rearing and education is indeed fundamental. In a long line

of cases, the Supreme Court has found a parental rights doctrine rooted in the First and Fourteenth Amendments of the U.S. Constitution. *See, e.g.*, *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923) ("While this court has not attempted to define with exactness the [due process] liberty . . . Without doubt, it denotes . . . the right of the individual to . . . marry, establish a home and bring up children."); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925) (finding that the act challenged in that case, "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control."); *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972) (citing *Pierce*, 286 U.S. at 535) ("[A] State's interest in education . . . is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protect by the Free Exercise Clause of the First Amendment, and the traditional interests of parents with respect to the religious upbringing of their children."). This Court, too, has recognized the "right to the preservation of family integrity," which "encompasses the reciprocal rights of both parent and children." *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2nd. Cir. 1977).

There is no constitutional justification for school officials to conceal from parents some of the most sensitive matters a family may face, except in the most extreme circumstances. For nearly a century, the Supreme Court has repeatedly affirmed the rights and responsibilities inherent in parenthood. *See Pierce*, 268 U.S.

at 535 ("The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction . . . The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."); *Meyer*, 262 U.S. at 400 ("It is the natural duty of the parent to give his children education suitable to their station in life."); *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944) ("It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder . . . It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter.") *Yoder*, 406 U.S. at 232 (declaring that parental rights have been "established beyond debate as an enduring American tradition."); *Smith v. Organization of Foster Families*, 431 U.S. 816, 845 (1977) ("The liberty interest in family privacy has its source, and its contours are ordinarily to be sought, not in state law, but in intrinsic human rights, as they have been understood in 'this Nation's history and tradition.'"). This consistent and clear recognition of parental rights demands on the part of public educators a high regard for the will of parents.

The school's active concealment of what they were doing to Mrs. Vitsaxaki's daughter only adds to the injustice. Addressing this issue only briefly, the district

court below found that, because the Supreme Court has held that there is "no affirmative right to governmental aid," *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 196 (1989), therefore "there is no notice requirement imposed on the government to appraise parents of their rights." *Vitsaxaki*, slip op. at 28. However, *DeShaney* is inapposite. First, the Court explained in *DeShaney* that "nothing in the language of the Due Process Clause itself requires the State to protect the life, liberty, and property of its citizens against invasion by *private* actors." *DeShaney*, 489 U.S. at 195 (emphasis added). First, private action is not at issue here.

Second, the question here is not whether the school had an obligation to inform Mrs. Vitsaxaki of her rights. Nor is the question whether the government had a responsibility to intervene to protect a child, as was the issue in *DeShaney*. Here, Mrs. Vitsaxaki knew her rights and sought to gain information that would allow her to exercise them. Even if school officials have no affirmative responsibility to inform parents of what is happening at school, a question not addressed by *DeShaney*, that would not mean that school officials have any authority or right to deliberately mislead an inquiring parent.

"The child is not the mere creature of the state," *Pierce,* 268 U.S. at 535. and parents, not school officials, have the right and responsibility "to direct the education and upbringing" of their children. *Glucksberg*, 521 U.S. at 720. The school's

deception in this case demonstrates that it knew it was interfering with that right. Had it believed that Mrs. Vitsaxaki and her husband would approve of their daughter being socially "transitioned," it would have had no reason to conceal the fact from them.

The school violated Mrs. Vitsaxaki's fundamental parental rights when it socially "transitioned" her daughter without her knowledge and affirmative consent. It compounded the violation when it first misled her, and then continued to encourage her daughter's "transition" even after Mrs. Vitsaxaki became aware and moved her daughter to online schooling. This Court should rule for plaintiff-appellant.

II. The Significance of the Disregard of Parental Rights in This Case is Evident When Compared to the Significant Parental Involvement in the Schools' Administration of Medication to Students.

The Skaneateles Central School District policy on the distribution of medication to students demonstrates that it understands the importance of parental consent for even basic interventions. In the District, the distribution of all medications, whether prescription or over-the-counter, is closely controlled. Parents must authorize the school to give their child medication which must be dropped off at the school in the original, labeled container.[5] The school personnel may only

[5] *Medication Administration*, Skaneateles Central School District (last visited June 9, 2025) available at https://www.skanschools.org/districtpage.cfm?pageid=437.

administer the medication when they have the parent's authorization in writing.[6] Any changes to administration of the medication can only be made by the physician, and permission forms are only valid for one year.[7]

In contrast to Skaneateles' meticulous medication policy, the school's gender policy leaves to the student's discretion whether to seek parental input. *Vitsaxaki*, slip op. at 22. Parents may be kept completely in the dark as school officials coax their children into deep personal confusion. In cases like the one before this Court, students may be allowed to choose new names and demand the use of pronouns of the opposite gender or contrived pronouns wholly unconnected to reality, all while school officials effectively encourage those children to lie to their parents.

Unless school administrators are prepared to make the serious claim that a parent is abusing his or her child, they have no business involving themselves in the raising of children without parental consent. Representatives of the state cannot simply claim that they are acting in the best interest of the child and on those grounds insinuate themselves between the parents and their children. *See Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) ("We have little doubt that the Due Process Clause would be offended if a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness

[6] *Id.*

[7] *Id.*

and for the sole reason that to do so was thought to be in the children's best interest."). Nor can school officials hide behind the supposed consent of the children in this case. *See Parham v. J. R.*, 442 U.S. 584, 602-603 (1979) ("Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state."). The child in this case was a seventh grader. She would not be allowed to provide consent for taking medication at school. She cannot legally consent to sexual activity. Contracts with minors may be voidable. She would be tried as a minor in a criminal context. The school's decision to encourage students to socially transition without their parents' knowledge or consent is as reprehensible as it is illegitimate.

In a speech at Hillsdale College, then-Secretary of Education Betsy DeVos said "the family [is a] sovereign sphere . . . A sphere that predates the government altogether. It's been said, after all, that the family is not only an institution; it's also the foundation for all other institutions."[8] The right of parents to raise their children, barring extraordinary circumstances, is just as old as the institution of the family and the Supreme Court has long recognized its protection under the Constitution. By

[8] Virginia Aabram, *Secretary of Education Betsy DeVos Speaks at Hillsdale*, (Oct. 22, 2022) https://hillsdalecollegian.com/2020/10/secretary-of-education-betsy-devos-speaks-at-hillsdale/.cite.

facilitating Mrs. Vitsaxaki's daughter's social "transition," the school officials in this case trampled over that fundamental right.

The right of parents to direct the upbringing of their children is of great importance and is fundamental to the liberty government exists to protect. This Court should rule in favor of Plaintiff-Appellant to ensure that the Constitution's guarantees of freedom are more than mere "parchment barriers"[9] against government power.

CONCLUSION

For the foregoing reasons, the Court should rule for plaintiff-appellant.

Respectfully submitted,

/s/ J. Marc Wheat
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[9] The Federalist No. 48 at 256 (James Madison) (George W. Carey and James McClellan, eds., The Liberty Fund 2001).

CERTIFICATE OF COMPLIANCE

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