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*In the*  
**United States Court of Appeals**  
*for the*  
**Tenth Circuit**

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JOSEPH WAILES, individually and as next friend of D.W., B.W. and G.W.,  
minors; SERENA WAILES, individually and as next friend of D.W., B.W. and  
G.W., minors; BRET ROLLER, individually and next friend of D.R. and B.R.,  
minors; SUSANNE ROLLER, individually and next friend of D.R. and B.R.,  
minors; ROBERT PERLMAN, individually and as next friend of M.P. and P.P.,  
minors; JADE PERLMAN, individually and as next friend of M.P. and P.P.,  
minors; ANNETTE BRINKMAN, individually and as next friend of A.G.B. and  
A.D.B., minors; DANIEL BRINKMAN, individually and as next friend of A.G.B.  
and A.D.B., minors,

*Plaintiffs-Appellants,*

– v. –

JEFFERSON COUNTY PUBLIC SCHOOLS; JEFFERSON COUNTY PUBLIC  
SCHOOLS BOARD OF EDUCATION,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLORADO – DENVER IN CASE NO. 1:24-CV-02439-RMR-NRN,  
REGINA M. RODRIGUEZ, U.S. DISTRICT JUDGE

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**BRIEF OF *AMICUS CURIAE* WOMEN’S LIBERATION  
FRONT IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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## STATEMENT OF IDENTITY AND INTEREST OF AMICI

Amicus is the Women's Liberation Front ("WoLF"), a non-profit, nonpartisan radical feminist organization dedicated to the liberation of women and girls by abolishing gender and sex discrimination.<sup>1</sup> As a radical feminist organization, WoLF rejects gender identity beliefs because they are founded on regressive sex stereotypes and undermine women's sex based rights. WoLF's interest in this case stems from its interest in protecting those most affected by gender ideology, women and girls, from its harmful effects. These include the infiltration of males into female only spaces, created not only to promote equal opportunity for women and girls, but to protect them from acts of sexual violence by males. We have a strong interest in protecting girls from male violence or sexual violence on school property or on overnight trips. Amicus uses "sex" throughout to mean "the fundamental distinction, found in most species of animals and plants, based on the type of gametes produced by the individual," and the resulting

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<sup>1</sup> No counsel for any party authored any part of this brief, and no party, their counsel, or anyone other than WoLF, has made a monetary contribution intended to fund its preparation or submission. WoLF has consent of all parties to file this brief.



classification of human beings into those two reproductive classes: female (women and girls) or male (men and boys).<sup>2</sup> Our interests in “gender identity” cases are significant, especially more so as organizations formerly dedicated to women now include men in their definition of woman.<sup>3</sup>

## STATEMENT OF JURISDICTION

Plaintiffs are four sets of parents—Joseph and Serena Wailes; Bret and Susanne Roller; Robert and Jade Perlman; Daniel and Annette Brinkman—and their children, who are, were, or will be enrolled in Jefferson County Public Schools (Jeffco). They sued Jeffco and its Board of Education in the United States District Court for the District of Colorado under 42 U.S.C. § 1983, raising First and Fourteenth Amendment claims. The district court had jurisdiction under 28 U.S.C. §§ 1331 and 1343.

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<sup>2</sup> See Sex, Male, and Female, Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health (7th ed. 2003), <https://medical-dictionary.thefreedictionary.com>.

<sup>3</sup>See Women’s Liberation Front, *Open Letter to Legacy Organizations That Lost Their Way*, July 2025, <https://womensliberationfront.org/news/dri2g55rphjssg287tkd1vm3qzeqxa>

## STATEMENT OF THE CASE

On August 7, 2025 the district court entered final judgment dismissing all plaintiffs' claims under Federal Rule of Civil Procedure 12 and denying their renewed motion for preliminary injunction. Plaintiffs filed a notice of appeal on August 29, 2025—within the 30-day period set by 28 U.S.C. § 2107(a) and Federal Rule of Appellate Procedure 4(a)(1)(A). 3.App.707. This Court has jurisdiction under 28 U.S.C. § 1291.

## STATEMENT OF FACTS

Jefferson County Public Schools (Jeffco) promises parents that boys and girls will be roomed separately on overnight school trips. But under its Transgender Students Policy, Jeffco will assign a boy who identifies as a girl to a girls' room (and vice versa) without notice to, or consent from, their parents.

The Wailes family sent their daughter D.W. on a Jeffco-sponsored fifth-grade trip to Washington, D.C., paying over \$2,000 plus additional costs for her mother to accompany her. They were told girls and boys would be housed on separate floors, understood as sex-separated rooms, but

were not informed of the transgender rooming policy. On arrival, D.W. discovered she had to share a bed with a boy who identified as a girl. D.W. and her parents were not given prior notice or opportunity to request accommodation. Despite their objections, Jeffco's staff prioritized the boy's wishes over D.W.'s need for safety, privacy, and dignity.

The Roller family's 11-year-old son B.R. attended Jeffco's mandatory Outdoor Lab sixth-grade trip, which is a four-day camping experience. They were told the boys would stay in separated cabins supervised by male counselors. However, B.R. found that an 18-year-old counselor who identified as female at their 4H club but male at school was assigned to the all-boys cabin. This counselor supervised the boys' showers, creating significant discomfort and distress to Roller's parents and interfered with their ability to protect their son. The Rollers were not notified about this arrangement prior to the trip and efforts to seek accommodation were ignored by the school.<sup>4</sup>

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<sup>4</sup> Boys also have the right to expect a single sex accommodation for sleeping, bathing, and dressing. In accordance with our mission to protect and fight for the rights of women and girls, we have limited our arguments in this brief to the rights of women and girls.

The Perlman family, also residents of Jeffco, are concerned for their daughter M.P., a high school freshman athlete who faces overnight trips for sports tournaments. After learning about other families' experiences, they discovered that Jeffco had a policy to make overnight room assignments based on "gender identity." They fear that their daughter could be placed in intimate overnight situations with boys. The Perlmans would not be able to ensure the safety of their daughter. They were especially concerned because M.P. had been subjected to incidents of sexual harassment at school.

The Brinkman family has two daughters in Jeffco schools, including A.G.B. who is scheduled to attend Outdoor Lab in January 2025. After raising concerns through multiple emails and meetings, requesting that their daughter not be assigned overnight accommodations with male students, they received little to no response from Jeffco officials. A.G.B. must sacrifice her safety, privacy, and dignity if she is to be able to enjoy Outdoor Lab.

## ARGUMENT

### **I. Gender Identity Is An Intangible Mental Construct And Cannot And Should Not Be Permitted To Override Sex**

Gender identity does not have a precise non-circular definition as its proponents have never set forth a definition that is not circular, nor do they use consistent definitions amongst themselves. *See American Psychological Association. Guidelines For Psychological Practice With Transgender And Gender Nonconforming People. Am Psychol 2015; 70: 832–64. [DOI] [PubMed]. See also Glicksman, Eve (April 2013), American Psychological Association: Monitor on Psychology, "Transgender terminology: It's complicated."* The term has variously been described as a "psychological aspect" or "internal sense" of oneself as male, female, or otherwise, separate from biological sex. This alleged internal sense is subjectively experienced and often discussed as a mental construct influenced by socialization and cognitive processes. *Sex, gender and gender identity: a re-evaluation of the evidence*, Lucy Griffin Katie Clyde, Richard Byng, Susan Bewley, *Sex, Gender, and Gender Identity: A Re-evaluation of the Evidence*,

BJPsych Bull. 2021 Oct;45(5):291–299, found at  
<https://pmc.ncbi.nlm.nih.gov/articles/PMC8596152/>.

The concept of “gender identity” presents cognitive challenges as well. Philosopher Kathleen Stock noted that in logic the concept of gender identity is a category error. In other words, the belief that "gender identity" alone determines someone's sex or womanhood/manhood is a fundamental error in categorization, where a subjective feeling is wrongly elevated above objective biological facts. Kathleen Stock, *Material Girls: Why Reality Matters for Feminism*. Fleet Publishing, 2021.

There has been a rapid increase in the last decade in the number of young people identifying as transgender or “nonbinary.” New York Times, *Report Reveals Sharp Rise in Transgender Young People in the U.S.* Credible researchers have demonstrated that, among young people, the sharp increase has been caused by social contagion. “Social contagion is a real and well-documented sociological phenomenon that applies to behaviors and ideas that spread through networks of people, which may explain some of the uptick in transgender youth. Colin Wright, *Evidence Backs the Transgender Social-Contagion Hypothesis*,

Manhattan Institute, October 29, 2025,

<https://manhattan.institute/article/evidence-backs-the-transgender-social-contagion-hypothesis>.

There are inherent differences between the sexes and regardless of how much a person wishes to “transition,” and regardless of how much time, effort, money, medication and surgery is used, the fact remains that sex is binary and cannot be changed. Elliott, Zachary A. 2025. *The Sex Development Handbook: A Guide to Human Sex Differentiation and Disorders of Sex Development*, pps 5-9. Paradox Press.

Historically women at best have been an afterthought, at worst considered closer to slaves and animals. This attitude carried forward into the fields of medicine and science with sometimes devastating consequences for women. Perez, Caroline Criado, 2019, *Invisible Women: Data Bias in a World Designed for Men*, pps. 289-300, Abrams Press. Women have been viewed and defined as “not men” rather than recognized as biologically complex, complete humans with internal systems that operate differently than men. The following quote represents the typical view of women:

"Throughout much of history and across many cultures, women were considered second-class citizens, expected primarily to be wives and mothers, passive, gentle, and caring, and often valued more for their appearance than their contributions. Their legal rights were limited, excluding ownership of property or political participation. This widespread patriarchal view only began to be seriously challenged in the late 18th to 19th centuries, leading gradually to women's emancipation and expanded rights, but inequalities have persisted into modern times." Unearth Women, *How Women's Rights Have Evolved From Medieval Times to Present Day*, February 20, 2025, <https://www.unearthwomen.com/how-womens-rights-have-evolved-from-medieval-times-to-present-day/>.

## **II. Girls and Women Have an Inherent Right to Single Sex Spaces**

Girls and women have inherent rights to freedom from servitude, liberty, safety, privacy, dignity, and self-sovereignty as expressed in fundamental human rights documents such as the French Declaration of the Rights of Women and The United Nations Convention on the



Elimination of All Forms of Discrimination Against Women, 1979, (CEDAW).

The U.S. Constitution did not guarantee any rights or protections for women. Legal recognition of women's rights has been achieved through amendments, state and federal legislation, and gained and lost in court interpretations over time. Not until the mid-nineteenth century were married women granted by state statutes the right to own property, inherit property, and enter into contracts. Until then married women were considered to be under coverture a legal disability.

Marylynn Salmon, *The Legal Status of Women, 1776-1830*, found at <https://faculty.uml.edu/sgallagher/The-Legal-Status-of-Women.pdf>.

Under coverture, a married woman had no separate legal identity from her husband; she could not own property, control her wages, enter into contracts, sue or be sued independently, or manage property. Any property or earnings a woman had before marriage became her husband's property upon marriage, and she had no independent control over such assets. Even her legal existence was "covered" or absorbed by her husband. David H. Bromfield, *Women and*

*the Law of Property in Early America*, 85 Mich. L. Rev. 1109 (1987), found at <https://repository.law.umich.edu/mlr/vol85/iss5/23/>.

Women's rights movements have played a critical role in advocating for these constitutional changes and legal recognition. Women's effort to achieve the vote was violently resisted. Suffragists such as Alice Paul, Rose Winslow, and Lucy Burns were jailed for picketing and protesting. They were beaten, choked, dragged, and thrown into solitary confinement under harsh conditions.<sup>5</sup> They refused food to assert their status as political prisoners. In response, prison guards forcibly fed them through tubes inserted into their noses or throats—a painful and degrading process that caused damage to their teeth, gums, and throats, and sometimes led to further health complications like pneumonia. Victoria Wolcott, *Suffragists Used Hunger Strikes as Powerful Tool of Resistance*, News and Views for the BU Community, August 21, 2020, found at <https://www.buffalo.edu/ubnow/stories/2020/08/wolcott-conversation-suffragists.html>.

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<sup>5</sup>The "Night of Terror" in 1917 at the Occoquan Workhouse involved guards brutally attacking 33 imprisoned suffragists.

Ratified in 1920, the Nineteenth Amendment explicitly guarantees women the right to vote, prohibiting denial or abridgement of voting rights on account of sex. U.S. Const. Amend. XIX. Still, there are influential public figures on the political right, including government leaders, who are publicly questioning and criticizing women's suffrage. Mariel Padilla, Grace Panetta, and Mel Leonor Barclay, 19thNews.org, August 12, 2025 *Who's Questioning Women's Right to Vote?*, found at <https://19thnews.org/2025/08/pete-hegseth-doug-wilson-women-voting> (quoting Defense Secretary Pete Hegseth, Trump nominee for Office of Special Counsel Paul Ingrassia, and assistant Secretary of Housing and Urban Development John Gibbs as government officials who have made statements supporting weakening or ending legal guarantees of universal individual suffrage).

In the 1960's and 1970s federal statutes were passed that advanced women's employment rights, educational access, and protections against sex discrimination. See e.g. The Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and The Pregnancy Discrimination Act of 1978. In 1971 the Supreme Court decided that the Fourteenth Amendment's

Equal Protection Clause required states to provide equal protection of the laws to any person. *Reed v. Reed*, 404 U.S. 71 (1971). It was the first time the Court applied the Equal Protection Clause of the Fourteenth Amendment to strike down a law that discriminated against women, specifically invalidating an Idaho statute that gave preference to men over women in appointing administrators of estates. Women were not recognized as “persons” until *Frontiero v. Richardson* in 1973. 411 U.S. 677, however. In *Craig v. Boren* in 1976 the court established “intermediate scrutiny” as the standard for review of sex-based distinctions. 429 U.S. 190 (1976). Women won their right to control their own body in *Roe v. Wade*, 410 U.S. 113 (1973) but lost it in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).

Although many women have put their faith in the Equal Rights Amendment (ERA), it would not help achieve women’s self-sovereignty as written. Fair and equal treatment under the law for women is not always going to mean identical treatment, which our law and culture recognizes. But a version of the ERA passed by the Senate which explicitly included protections for women and girls (the “Hayden rider”) then failed in the House because such a rider would “negate the

amendment's original purpose," which was both sexes being treated the same under the law. Cynthia Ellen Harrison, *On Account of Sex: The Politics of Women's Issues, 1945–1968*. P. 31-32. University of California Press, 1989.

On the world stage, the United Nations recognizes women's rights as human rights, affirming their right to life, freedom from violence, liberty, security, and equality before the law. These rights include the right to safety and privacy as essential components of human dignity. The Office of the High Commissioner for Human Rights (OHCHR) also has highlighted women's rights to dignity and legal protection, including respect as persons and free development of personality [https://www.pulp.up.ac.za/images/edocman/pulp-commentaries/protocol\\_to\\_ACHPR/Article\\_3.pdf](https://www.pulp.up.ac.za/images/edocman/pulp-commentaries/protocol_to_ACHPR/Article_3.pdf). The OHCHR also states that women's autonomy rights include equality, privacy, and bodily integrity. *Id.* Women's safety and security are fundamental human rights and a social responsibility, encompassing freedom from violence and equal opportunity to live dignified lives.

Girls and women are even more uncertain of their rights in the United States today because of the insistence of advocates for gender

identity ideology that “sex” is a term without objective meaning. If women lose their sex class, they will lose all right to security, safety, privacy, liberty, and dignity from men. They will be, once again, “not men,” yet required to share their most intimate spaces and opportunities for achievement with men who identify as women.

Privacy protections are as critical to safeguarding girls and women from abuse and sex-based violence. Laws had been evolving in the United States to recognize a reasonable woman's expectation of privacy, but progress is neither linear nor is it assured, and we have seen regressions in recent years on multiple fronts of women's rights.

Elizabeth M. Schneider, *The Synergy of Equality and Privacy in Women's Rights*, University of Chicago Legal Forum, Vol. 2002 Issue 1, found at

<https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1320&context=uclf>. See *Roe v. Wade* contrast *Dobbs v. Jackson*. A 2024 tally reported by HeCheated.org documented 5,149 males competing in women's sports over a nine-month period, raising about displacement of female athletes. See [SheWon.org](https://www.shewon.org) (listing 2911 females displaced by males in girls' and women's sports and still counting.)

Women's Sports Policy argues for restricting access to female athletes' locker rooms to biological females citing privacy, safety, and trauma concerns from having males present. [Access to Female Athletes' Locker Rooms Should Be Restricted to Female Athletes](#). Quite simply, the biggest threat to females are males.

### **III. Mixed Sex Intimate Spaces Jeopardize the Safety, Privacy and Dignity of Girls and Women**

The idea that boys and men can transition to being girls and women is a fallacy that has serious consequences. The process of “transitioning” confuses and harms children psychologically and physically. Genspect reports that studies show elevated rates of depression, unemployment, psychiatric hospitalization, incarceration, and suicide after medical transition (Bränström & Pachankis, 2020; Dhejne et al., 2011; Kohnepoushi et al., 2023; Lam et al., 2022; Van de Cauter et al., 2021; Wiepjes et al., 2020). And, as adolescents are fast-tracked to irreversible procedures, detransitioners who have been subject to this approach report lasting physical and psychological harm (Cohn, 2023; Littman et al., 2024; Roberts et al., 2022).

Additionally, girls and women are harmed psychologically and physically by being deprived of whatever right to privacy, safety and dignity that they once could come to expect. This gender ideology belief system has been implemented as policy across the country in various private and public systems and facilities. As a result, girls and women are being pushed back into the private sphere.

Sexual assaults against women—including rape, indecent assault and battery, voyeurism, exhibitionism, and lewd behavior—are highly prevalent in the United States. Over 80% of women in the U.S. have experienced some form of sexual harassment or sexual assault (which includes rape, indecent assault, exhibitionism, etc.), according to the National Sexual Violence Resource Center. NSVRC, *Statistics*, found at <https://www.nsvrc.org/statistics/>. 91–93% of sex offenders are male, and 86% of victims are female. <https://vpc.org/studies/wmmw2024.pd>. In 2025, more than 204,000 women reported that they had been victimized by males committing sex offenses (including rape, fondling, indecent assault, voyeurism, and exhibitionism). Women and girls—especially ages 11 to 20—are the most affected. Voyeurism, exhibitionism, and lewd behavior are included within broader sexual violence statistics,



but are often underreported. Sexual harassment (including indecent exposure and voyeurism) affects the vast majority of women at some point in their lives. These figures reflect only reported cases—the actual prevalence is likely significantly higher due to substantial underreporting, stigma, and other barriers to disclosure.

<https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/query>

Another uncomfortable fact for advocates of breaking women's boundaries on behalf of males who assert a female gender identity, is that even after engaging in medical interventions in order to transition, studies show that male pattern criminality does not change. In other words, for purposes of safeguarding women and children we must acknowledge that they are still men. Cecelia Dhejne, et. al., Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden, found at

<https://journals.plos.org/plosone/article?id=10.1371%2Fjournal.pone.0016885>.

The prevalence of sexual harassment increases in peaks between 6th and 8th grade, which is typically a span of time when adolescents are going through major biological and developmental changes

(Peterson & Hyde, 2009). Girls and women cannot be certain that they will be safe in a female-only facility unless they are certain that it is in fact a female-only facility.

Facilities for sleeping, using toilets, changing clothing, or showering inherently involve vulnerability and implicate dignity and privacy interests. Providing single-sex intimate facilities (comparable for each sex) is a valuable way to ensure that women and girls feel safe enough to participate fully in public life. For this reason, constitutional equal protection challenges to single-sex facilities have been largely unsuccessful. See, e.g., *Faulkner v. Jones*, 10 F.3d 226, 232 (4th Cir. 1993) (“The point is illustrated by society’s undisputed approval of separate public rest rooms for men and women based on privacy concerns. The need for privacy justifies separation and the differences between the genders demand a facility for each gender that is different.”); see also *Sepulveda v. Ramirez*, 967 F.2d 1413, 1416 (9th Cir. 2012) (“[t]he right to bodily privacy is fundamental” and “common sense” and “decency” protect a parolee’s right not to be observed by an officer of the opposite sex while producing a urine sample); *York v. Story*, 324 F.2d 450, 455 (9th Cir. 1963) (“The desire to shield one’s

unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity.”). Girls and women need a more recent judicial holding preserving their rights.

Separation of the sexes for intimate activities has been long established. See, e.g., W. Burlette Carter, *Sexism in the “Bathroom Debates”: How Bathrooms Really Became Separated by Sex*, Yale Law & Policy Review, 37 (1) 227-297 (2018), [https://doi.org/https://Yalelawandpolicy.org/sites/default/files/YLPR/carter\\_vol.37.1\\_227297.pdf](https://doi.org/https://Yalelawandpolicy.org/sites/default/files/YLPR/carter_vol.37.1_227297.pdf). (“[S]ex-separation in [public intimate spaces such as bathrooms and locker rooms] dates back to ancient times, and, in the United States, preceded the nation’s founding. [A] key purpose of sex-separation in bathrooms was to protect women and girls from sexual harassment and sexual assault in the workplace and other venues.”)

The project to validate and promote legal entrenchment of transgender identities has entered the mainstream, resulting in an organized campaign to dismantle sex-based protections in in all sex-segregated spaces, including schools, school overnight trips, locker rooms, bathrooms, spas, sororities, rape shelters, and prisons. Cases

like the one before the court arise from efforts to resist this campaign, led by a loose coalition of radical feminists, gay and lesbian rights advocates, parents' groups, religious people, and others who object to the reality of sex differences being subsumed by the subjective and mystical notion of transgender identity. These cases have considered constitutional arguments and federal laws creating female only categories as well as state laws, regulations, and policies at all levels of government. Sometimes the definition of the word woman has been examined and turned inside out to include within its definition "men," such as in the case of *Westenbrooke v. Kappa Kappa Gamma Fraternity*, 2024 WL 2954705 (10th.Cir.), in which the sorority defendant argued that the word woman is "unquestionably open to many interpretations." Clair McFarland, *Sorority Lawsuit Has National Implications, Could End Up in U.S. Supreme Court*, Cowboy State Daily, March 28, 2023, <https://cowboystatedaily.com/2023/03/29/floodgates-are-open-with-lawsuit-challenging-uw-sorority-over-transgender-member/>. The central constitutional argument is that individuals claiming transgender identities deserve special protection as a suspect or quasi-suspect class

under the Equal Protection Clause of the United States Constitution. These cases have resulted in conflicting opinions and a circuit splits.

But even opinions that have rejected the constitutional argument underlying demands for male inclusion have largely bypassed the foundational question of *why* a male might want access to female only spaces and activities in the first place, as though it were impolite to ask. The refusal to tackle this question subordinates the well-being and physical safety of girls and women to the subjective feelings of a certain category of males.

Underlying the civil rights language, with claims about immutable traits, powerlessness, and oppression, there is often a less exalted aspect to cases in which men claiming a transgender identity seek entry to places and activities restricted to females. Once, the reason was universally understood, but that is inconvenient to acknowledge for advocates of male inclusion in female only categories. This is a simple truth so obvious it should hardly need to be said yet it is now so inflammatory that it is routinely suppressed: males who penetrate boundaries created to protect females pose a unique threat of sexual transgression to women and girls. Advocates for the rights of males to infiltrate girls' and women's spaces

and activities seek to erode the shared understanding of this simple truth. Now it is considered regressive to even acknowledge that males pose sexual and violent threats to women.<sup>6</sup>

If men and boys who claim a transgender identity are granted this special protection, girls and women will be deprived of privacy and dignity and put at risk of physical harm. Male-pattern sexual aggression poses a threat to girls and women in all sex-segregated spaces, regardless of the male's "gender identity." See Cecelia Dhejne, et. al., Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden. For these reasons, court cases and other high-profile instances of individuals infiltrating spaces previously reserved for girls and women have overwhelmingly involved males who claim a female identity. The case of *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) is an example of

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<sup>6</sup> A fact that had been known for years in law enforcement is now ignored. Sexual homicide perpetrators have been found to have a high occurrence of genital and gender dysphoria. Stoller, Robert J., *Presentations of Gender*, 1985 Yale University Press. In a 1988 study of sexual homicide killers, 54% were cross-dressers or transvestites. Today, these men would be called "transwomen." Langevin, R., Lang, R.A., Wright, P. et al. Identifying violence-proneness in sex offenders. *Annals of Sex Research* 2, 49–66 (1989). <https://doi.org/10.1007/BF00850679> Visited 8/26/25.

the less common case of a female intruding on male spaces while claiming a transgender identity. Despite any advancements obtained by girls and women in their right to participate fully in society, day to day encounters with harassing males is still the rule rather than the exception. For example, in a case pending in the Supreme Court, *B.P.J. v. West Virginia*, 98 F.4th 542 (2024), an affidavit from one of the female athletes stated that during her final year of middle school:

“B.P.J. made inappropriate sexual comments a lot more often; it increased throughout that year; and the comments became much more aggressive, vile, and disturbing. 53. Sometimes B.P.J.’s comments were just annoying, like commenting that I have a “nice butt.” 54. But other times, I felt really embarrassed, and I didn’t want to repeat the gross things B.P.J. said to me. 55. During the end of that year, about two to three times per week, B.P.J. would look at me and say “suck my d\*\*\*.” There were usually other girls around who heard this. I heard B.P.J. say the same thing to my other teammates, too. 56. B.P.J. made other more explicit sexual statements that felt threatening to me. At times, B.P.J. told me quietly “I’m gonna stick my d\*\*\* into your pu\*\*\*.” And B.P.J. sometimes added “and in your a\*\*\*” as well. These comments were

disturbing and caused me deep distress. 8 57.” B.P.J. made these vulgar comments towards me in the locker room, on the track, and in the throwing pit for discus and shotput. 58. I felt confused and disgusted when I heard these vulgar and aggressive comments. It was especially confusing because I was told that B.P.J. was on the girls’ team because B.P.J. identifies as a girl, but the girls on the team never talked like that. 59.

In short, a boy claiming a transgender identity to gain access to female only sports and facilities used that access to sexually threaten and intimidate girls. Such information is relevant to whether that access should be granted: the entire basis for granting boys access to girls' spaces and activities is the assumption that the boy's subjective sense of being a girl and the resulting feeling of stigmatization that would result from being treated like a boy. Time and again, across the country and in various facilities the objective behavior of the male points to a different motivation for wanting to play on the girls’ team.

This bears on the effects of his participation, and begs the question of whether the law should privilege a boy's reported subjective feelings over the objective reality of sex differences. Fox News appears



to be the only national mainstream media outlet to report the sexually aggressive behavior of males who portray themselves as girls or women. Student Adelaia Cross has reported this on Fox News as she attempts to save Title IX for female athletes.

<https://www.youtube.com/watch?v=2vHE2KEQWW0;>

<https://www.foxnews.com/opinion/female-athlete-who-fought-protect-girls-sports-won-supreme-court>. And if an incident should make the news, mainstream media buries the lede of male sexual transgression under the non sequitur of transgender identity and refers to the perpetrator as female.<sup>7</sup>

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<sup>7</sup> There are numerous examples of this. See Evidence and Data on Trans Women's Offending Rates Professor Rosa Freedman, Professor Kathleen Stock, and Professor Alice Sullivan written remarks after reviewing the data from the Swedish studies, presented to Sex Matters. The findings show that transsexual individuals were more likely to be criminal than non-transsexuals of the same birth sex in the first cohort (1973-1988), and no different from their birth sex in the second group (1989-2003). The researchers state: 'Male-to-females . . . retained a male pattern regarding criminality. The same was true regarding violent crime.' MtF transitioners were over 6 times more likely to be convicted of an offence than female comparators and 18 times more likely to be convicted of a violent offence. The group had no statistically significant differences from other natal males, for convictions in general or for violent offending. The group examined were those who committed to surgery, and so were more tightly defined than a population based solely on self-declaration.

Darren Merager: a trans-identifying male and registered sex offender regularly exposes himself to women and girls in the female changing rooms of Wi Spa, yet the media portrayals discredit his accusers. When Merager the national mainstream accounts discredited the women and girls who complained about him.

Wi Spa is a Korean spa in Los Angeles' Koreatown. As is typical of traditional Korean spas, Wi Spa has separate spa facilities for men and women to allow customers to use the spa while naked without the discomfort of exposing themselves to the opposite sex. In fact, Wi Spa does not allow swimwear in its sex segregated spaces: if an intact male gains entry to the female-only area women and girls will not only themselves be naked and exposed to a male, but they will be exposed to male genitals in a female only space.

On July 24, 2021, a female Wi Spa customer posted a video to Instagram in which she confronted Wi Spa staff about a man exposing his penis in the women's changing room in front of female patrons, including young girls. Wi Spa staff responded that, by law, they could

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<https://sex-matters.org/posts/prisons/evidence-and-data-on-transwomens-offending-rates>.

not discriminate against “transgender women,” meaning that any man was free to use the female only locker room and spa area where all patrons would be naked, provided they said they were women. A male patron intervened during the filming to chastise the female customer, stating that perhaps the trespassing male was transgender, and thus entitled to display his penis in the female changing room. See, e.g., City News Service, *Viral Video of Client Complaining About Trans Woman in LA Spa Sparks Protests*, NBC Los Angeles (July 3, 2021). The video was widely viewed, leading to protests, counter protests, and extensive media coverage. Within days of the incident, several mainstream media accounts had concluded that the allegations against the man were a hoax intended to drum up anger against people who call themselves transgender.

An article in The Guardian that referred to a “nightmare scenario” to describe purported harms to trans-identifying people from the objections of women and girls to a naked man in their locker room typified the mainstream coverage. The Guardian, *“A nightmare scenario”: how an anti-trans Instagram post led to violence in the streets*, (July 28, 2021). In its second paragraph, the article characterized the

allegations that a man claiming a transgender identity had exposed himself in a female only space at Wi Spa as “unsubstantiated” and “distorted,” implied repeatedly that the allegations were “misinformation,” and cast doubt on whether a “trans person” was even present at the spa. In other words, mainstream accounts reflexively discredited a woman alleging sexual impropriety by a man who claimed a transgender identity to access female only spaces where women and girls would be naked, arguing alternatively that no “transwoman” was present and that in any case, such men pose no threat to women, even in intimate spaces.<sup>8</sup>

Stated differently, presented with a story about a man who penetrated a female only intimate space, these outlets defaulted to the novel, exotic explanation that the man was a “transwoman” born in a male body rather than the familiar, statistically more likely explanation

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<sup>8</sup> Sexual homicide perpetrators have been found to have a high occurrence of genital and gender dysphoria. Robert J. Stoller, *Presentations of Gender*, 1985 Yale University Press. In a 1988 study of sexual homicide killers, 54% were cross-dressers or transvestites. Today, these men would be called “transwomen.” Langevin, R., Lang, R.A., Wright, P. et al. *Identifying violence-proneness in sex offenders*. *Annals of Sex Research* 2, 49–66 (1989). <https://doi.org/10.1007/BF00850679> Visited 8/26/25.

of deviant male sexuality. Quispe López and Kieran PressReynolds, *How a video that may have been a hoax caused a frenzy on the right and ignited violent anti-trans protests at an LA spa*, Business Insider (July 21, 2021); Evan Urquart, *Violence Over an Alleged Transphobic Hoax Shows the Danger of Underestimating Anti-Trans Hate*, Slate (July 9, 2021).

By early September 2021, police had identified the suspect as a repeat male sex offender with multiple convictions for indecent exposure. Four women and a female minor brought charges against him for indecent exposure related to the Wi Spa incident. But California law protects male access to female-only spaces for males who identify as females; demonstrating that he was present and naked in a female-only space was insufficient to support the charges. Merager was acquitted because the prosecution failed to prove beyond a reasonable doubt that he was *erect* during the incident. Following his acquittal, Merager told L.A. Magazine that he intended to continue using female-only facilities. Merager referred to himself as a “pioneer.” The reporter did not challenge their subject’s positive spin.

Voyeurism and exhibitionism - which are of particular concern in intimate spaces - are extremely rare among women and girls. Andrew George Thomas et al., *Sex Differences in Voyeuristic and Exhibitionistic Interests: Exploring the Mediating Roles of Sociosexuality and Sexual Compulsivity from an Evolutionary Perspective*, Archives of Sexual Behavior (2021) (finding that 4-31% of the population has a sexual interest in exhibitionism, depending on how it is defined, with males more likely to be interested than females). *See also* K. Zucker, *DSM-5: call for commentaries on gender dysphoria, sexual dysfunctions, and paraphilic disorders*. Archives of Sexual Behavior. Vol. 42, Iss. 5, pp. 669 – 674 (2013).

#### **IV. Women's Real Interests Have Never Been Represented and Women Defending Sex Based Rights Have Been Denied A Seat At the Table.**

Women's sex based rights have been ignored at every step of the implementation of gender identity theory. Civil rights organizations and women's organizations, such as the ACLU, NOW, National Women's Law Center, and many others have abandoned women in favor of vigorously supporting gender identity. When women who

understood that sex is immutable and that the majority of women are not agreeable to having men in their intimate spaces and that these policies put girls and women at risk have attempted to be heard they have been ignored, silenced, fired, or shunned. These legacy organizations have supported programs that increase the risk of violence against women and girls; misrepresented medical and biological science; ignored the crimes committed against women in prison by men, supported efforts to secure extraordinary privileges for predatory individuals by obliterating the rights of every woman and girl; degraded women and girls by supporting policies that admit men to the sex class of women and girls; completely undermined female athletes; and silenced women and girls who dissent. Women have had no seat at this table.

## CONCLUSION

The decision below should be reversed.

Respectfully submitted,

s/ Lauren A. Bone

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## STATEMENT OF RELATED CASES

There are no prior or related appeals.

## **CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT**

This brief complies with the type-volume limitation of Federal Rules of Appellate Procedure 32(a)(7)(B). This brief contains 5,817 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in fourteen-point Century Schoolbook.

Date: November 26, 2025

s/Lauren A. Bone  
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## **CERTIFICATE OF DIGITAL SUBMISSION**

Counsel for Women's Liberation Front hereby certifies that all required privacy redactions have been made, which complies with the requirements of Federal Rule of Appellate Procedure 25(a)(5).

Counsel also certifies that any and all hard copies submitted to the Court are exact copies of the ECF filing from November 26, 2025.

Counsel further certifies that the ECF submission was scanned for viruses with the most recent version of a commercial virus scanning program (SentinelOne software version 24.2.3.471 [November 26, 2025]), and, according to the program, is free of viruses.

Dated: November 26, 2025

/s/ Lauren A. Bone

**CERTIFICATE OF SERVICE**

I hereby certify that on November 26, 2025, I electronically filed the foregoing with the United States Court of Appeals for the Tenth Circuit using the CM/ECF system, which automatically will send notification of such filing to counsel of record.

*s/Laruen A. Bone*

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