No. 23-5600

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

L.W., et al.,
Plaintiffs-Appellees,

&

UNITED STATES OF AMERICA
Intervenor-Plaintiff-Appellee,

v.

JONATHAN SKRMETTI, et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the Middle District of Tennessee
Case No. 3:23-cv-00376

BRIEF OF AMICI CURIAE DETRANSITIONERS IN SUPPORT OF DEFENDANTS-APPELLANTS SEEKING REVERSAL

Jordan Campbell
Ronald Miller
Daniel Sepulveda
Campbell Miller Payne, PLLC
5955 Alpha Rd #1491
Dallas, Texas 75240
Telephone: (214) 316-7156
jordan@cmppllc.com
ron@cmppllc.com
daniel@cmppllc.com

Joshua K. Payne
Campbell Miller Payne, PLLC
5955 Alpha Rd #1491
Dallas, Texas 75240
Telephone: (214) 316-7156
josh@cmppllc.com

Counsel for Amici Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Other Authorities

STATEMENT OF INTEREST OF AMICI

Amici Billy Burleigh, Laura Perry Smalts, Laura Reynolds, KathyGrace Duncan, Amanda Stewart, and Jane Smith (pseudonym)[1] respectfully submit this brief in support of Defendants-Appellants. Plaintiffs-Appellees and Defendants-Appellants have consented to this filing, and the Intervenor-Appellee does not object.[2]

Amici experienced gender dysphoria when they were adolescents and young adults. They were led to believe that medical interventions for the purpose of "gender transition," such as cross-sex hormones and surgical procedures, would resolve their gender dysphoria and permit them to live healthy, well-adjusted lives. Sadly, amici learned through their experiences that such interventions did not resolve their mental health issues or gender dysphoria, but only increased their distress and caused physical harm as they realized their bodies had been irreversibly altered based upon a false promise.

Amici respectfully submit this brief to provide this Court with an understanding of their experiences as detransitioners, which are shared by thousands of individuals in the United States who have undergone medicalized

[1] A pseudonym is being used to protect the identity of the amicus and her family members.

[2] No counsel for a party authored this brief in whole or in part, and no person other than amici or their counsel contributed money that was intended to fund preparing or submitting the brief.

transition; the demographic shift in gender dysphoria toward teenage girls and away from adult men; and the scientific evidence showing childhood gender dysphoria often resolves without medical intervention.

Amici respectfully submit it is critical that this Court hear their stories as human beings who have experienced permanent loss, irrevocable physical harm, and increased emotional distress from treatments that they were told would benefit them.

ARGUMENT

I. Amici, and Thousands of Others Like Them, Were Harmed by Medicalized "Gender Transition," Not Helped by It.

Amici experienced gender dysphoria when they were adolescents and young adults. They were led to believe that medical interventions for the purpose of "gender transition," such as cross-sex hormones and surgical procedures, would resolve their gender dysphoria and permit them to live healthy, well-adjusted lives. Sadly, amici learned through their experiences that such interventions did not resolve their mental health issues or gender dysphoria, but only increased their distress and caused physical harm as they realized their bodies had been irreversibly altered based upon a false promise.

Billy Burleigh

Billy Burleigh grew up in a good family with supportive parents. But in the first grade he began experiencing intrusive thoughts that "God made a mistake. I'm a girl." Through elementary school he had learning and emotional difficulties. He was in emotional pain, and he withdrew from others trying to cope. He was sexually abused in sixth grade by a male diving coach.

Looking for answers to his distress, the prevailing information he received was that the only way to overcome the disconnect was to change his body to conform to what his mind was telling him. Driven by depression and thoughts of suicide, Billy was willing to try anything to relieve his suffering. He told his

therapist he wanted to transition, and she provided him a letter to begin cross-sex hormones. Billy was prescribed spironolactone, to block testosterone, and estrogen. He underwent multiple surgeries. Starting at age 34, he underwent vaginoplasty, labioplasty, an Adam's apple shave, facial plastic surgery, and voice feminization surgery.

However, no matter how many surgeries he had, every time Billy looked in the mirror he saw a man staring back at him. Despite a successful professional career and passing well as a woman he still had all the same problems and mental distress he had before transitioning. After seven years, he began to detransition. What helped him come to terms with his male body was finding peace with God and a wonderful faith community. With the help of healthy relationships with other men and a community that loved and supported him, he was able to make the journey back to embracing his male self. Billy got married in 2011 and is currently living happily as a male, a husband, and father, although he still must live with the consequences of a scarred body and the inability to engage sexually with his wife.

Based on his experience, Billy believes strongly that, even with parental consent, the medical and surgical interventions aimed at "affirming" a discordant gender identity are harmful to children. They are putting a band-aid on the underlying issues that the child is having. Children are looking for acceptance, significance, and security. "Gender-affirming" treatments are offered to satisfy

those needs, but from his own painful experience Billy warns they cannot do that long term. Billy has spoken with many detransitioned young people. Many of them have experienced trauma and/or sexual abuse. Billy has realized that these kids need therapy and a safe environment to work through and address the severe mental health issues they are experiencing. Children facing the struggles Billy faced need help with their thoughts, not a body "fix" with hormones and surgery. Tennessee's law promotes that more effective therapeutic option.

Laura Perry Smalts

Laura Perry Smalts will never experience giving birth to or breastfeeding a child because she became convinced that she was "born in the wrong body" and that her body needed to be altered to conform to her belief that she was really male. She now realizes that there are far better and healthier ways to assist a child who is distressed with her body that bring long-term resolution, and her story is living proof of that truth.

Like many detransitioners, Laura did not conform to gender stereotypes and experienced sexual abuse by a neighbor and family dysfunction during childhood, which contributed to her believing that she was really a boy. From an early age she fantasized about being a boy and wrote stories of herself as a male character but was not aware of the concept of being transgender until age 25. The desire to become male had become so strong that she began searching on the internet and

was shocked to find numerous stories, websites, and support groups related to being transgender.

Laura went to a support group which immediately affirmed her as "transgender." From that point on, she was absolutely convinced that she was a "man trapped in a woman's body" and her body needed to be fixed. She started taking testosterone at age 25 after receiving a diagnosis of gender identity disorder and letter from a therapist. Laura's physician, who was aware of her history of chronic hormone imbalance, nevertheless prescribed the cross-sex hormones on the same day. During nine years on testosterone, Laura experienced her voice getting lower, her jaw becoming more masculinized, her body shape changing, more hair growing on her body, and hair receding on her scalp. Her blood became very thick so that she became in danger of a stroke. Laura had to undergo therapeutic blood withdrawals to thin her blood.

With the medical interventions to support "gender transition," Laura fully passed as male and would have described herself as happy for the first few years. However, she also began to have problems with her memory and cognitive functioning. She became anxious, depressed, and neurotic about talking to people, becoming obsessed with "every detail of life fitting a male narrative." She couldn't function at work. Still, Laura was convinced that she wanted these interventions

and underwent a double mastectomy at age 27 and complete hysterectomy, sending her into menopause at age 30.

During the time that she lived as a man, Laura was constantly reminded of the truth, but had to constantly override it, which she found to be exhausting. After seven years of medical transition treatments, Laura was depressed and suicidal. She was so wrestles she had difficulty sleeping and staying focused at work. She credits faith in Jesus Christ and the "positive message of love in God's Word," as what brought true healing in her heart. If Laura had not given her life to Christ, she believes that she would have taken her own life because she realized she could neither escape the pain of her past nor become the man she longed to be. She entered a support group that helped her process the pain of her life and talk openly about the sexual trauma, issues with her mother, and rejection by others. She began working through a healing community, restoring her emotionally and psychologically as a woman. She received counseling that helped her see the broken patterns, process negative thinking towards herself, and understand healthy womanhood. She began to realize that she was not a man but had fixated on becoming a person who would be loved. In 2016 she detransitioned. In May 2022, Laura got married and no longer experiences any gender dysphoria.

Laura believes that laws like Tennessee's are important because minors do not have the capacity to appreciate the gravity of these decisions involving the

complications of medical transition and what they are giving up, including sexual function and parenting. Nor does she believe a parent should be allowed to radically alter their child's body or allow their child to be sterilized because their child is experiencing a mental ailment. Based on her experience, Laura believes transition procedures do not solve anything but only give temporary relief, like taking a pain killer for a broken bone. From personal experience, Laura knows there are far healthier ways to help children resolve distress with their bodies.

Laura Reynolds

Laura Reynolds was a gender non-conforming child who was diagnosed with ADHD, depression, and anxiety. Later she learned she had undiagnosed autism. When she learned that ADHD was more common in boys, she began to think she had a "male brain." This seemed to account for why she did not fit in socially and wanted to have more freedom to be active like boys. Starting when she was 10 years old, Laura suffered from sexual harassment, which caused her to experience a sense of panic about her female body which led to body dysmorphia. At age 15, Laura learned about transitioning on the internet. She thought it was possible to change sex, and she began binding her breasts and transitioning socially.

At age 18, Laura went to a gender clinic and was diagnosed with gender dysphoria and started on testosterone. Laura's psychologist never explored why

she had gender dysphoria and wanted to transition, nor did the psychologist review her neurological deficits. A year later, Laura scheduled a double mastectomy. At the time, she believed it was possible that she could become a man, that breast removal was necessary to be a "trans man," and that she would never want to have children. Laura underwent two rounds of breast removal surgery, which was traumatic and resulted in increased body dysmorphia. She was left with large amounts of scar tissue and permanent disfigurement.

Laura ultimately realized that she could not change her sex and that it would not be possible to actually become a man. She decided to detransition and get off testosterone for health reasons, including painful vaginal atrophy.

Laura later became pregnant. She experienced gestational diabetes and was told she should breast feed her baby in order to reduce his chances of becoming diabetic. However, it was impossible for Laura to breast feed her child because of her medical "transition" and mastectomy surgery while in her youth.

KathyGrace Duncan

From a very young age, KathyGrace was gender nonconforming; she preferred male attire, thought she was a "boy," and wanted to live as one. However, it was not until after she had medically transitioned and lived for many years as a man that she was able to reflect on the complex true origins and causes for her self-perception and gender dysphoria. Growing up in a dysfunctional family

in which her mother was often the victim of her father's emotional and verbal abuse, KathyGrace intuited the message that "my dad would love me if I were a boy." Sexual abuse by a family member between the ages of 10 and 12 further convinced her that being a girl meant being unsafe and unlovable.

In sixth grade, she learned about female to male transsexuals, leading her to conclude that her distress was caused by not having the "right" body and the only way to live a normal life was to medically transition and become a heterosexual male. At age 19, she began living as a man named Keith and went to a therapist who formally diagnosed her with gender dysphoria. She began testosterone and a year later had a mastectomy. At the time, she believed changing her body was necessary so that what she saw in the mirror matched what she felt on the inside. She never viewed her condition as touching on mental health issues, and neither did the therapist who diagnosed her. Whether her self-perception and desire to transition was related to her mental health issues was never explored.

After 11 years passing as a man and living a relatively "happy" and stable life (which included having a number of girlfriends), KathyGrace realized that she was living a lie built upon years of repressed pain and abuse. Hormones and surgery had not helped her resolve underlying issues of rejection, abuse, and sexual assault. Her desire to live as a man was a symptom of deeper, unmet needs.

With the help of life coaches and a supportive community, KathyGrace returned to her female identity and began addressing the underlying issues that had been hidden in her attempt to live as a man. She experienced depression that she had repressed for years and grieved over the irreversible changes to her body. KathyGrace believes that if someone had walked with her through her feelings instead of affirming her desire to transition, she would have been able to address her mental health issues more effectively and not spend so many years making and recovering from a grave mistake.

Amanda Stewart

As a child, Amanda was a tomboy and thought she might want to serve the Church as a nun. She did not think she wanted to have children. When she was a young teenager, at age 14, Amanda suffered the trauma of having her mother sadly pass away, leaving her father as her sole parent. During her teen years Amanda also was diagnosed with autism and schizoaffective disorder.

When she was a young adult, at age 22, Amanda was set on a path of medicalized gender transition by health care providers she trusted to take care of her. A physician prescribed her testosterone based on a recommendation letter from a counselor. Amanda found that the testosterone the doctor prescribed her was highly addictive, and she proceeded to take it for the better part of 15 years.

Approximately four years after the doctor prescribed her testosterone, Amanda was misled into a double mastectomy, in which a surgeon removed her healthy breasts. Amanda feels this surgery was done incorrectly. The following year, another surgeon performed a hysterectomy and oophorectomy, removing Amanda's uterus and ovaries. Amanda does not believe any of these surgeries were medically necessary or appropriate, and she feels that she was deceived into undergoing those costly procedures.

Throughout this time, Amanda was seen by a nurse practitioner who prescribed her various psychotropic medications for her mental health issues. She also was seen by a therapist who encouraged her to stay on testosterone.

A few years ago, Amanda was prescribed Risperdal, a powerful antipsychotic medication used to treat schizophrenia, bipolar disorder, and autism spectrum disorder. It works by balancing the levels of dopamine and serotonin in the brain, substances that help regulate mood, behaviors, and thoughts.

After she was prescribed Risperdal, Amanda began to realize that her mental health issues were improved, something testosterone had not been able to achieve for her. Amanda realized that she did not need testosterone, and she was able to free herself from that controlled substance after being placed on it, and continued on it for many years, by her health care providers.

Amanda has only recently realized that her health care providers harmed her and misled her. She wishes she could have those years of her life back, as well as her healthy body and body parts, but she understands that is not possible.

Jane Smith (pseudonym)

Jane grew up in a deeply traumatic family setting. Her parents were hoarders, so she grew up surrounded by filth. Horrifically, she was sexually abused by her father, an alcoholic, for years growing up. Undoubtedly related to her traumatic upbringing, Jane suffered from post-traumatic stress disorder, night terrors, severe depression and anxiety, and she developed an eating disorder. Jane even became suicidal and at one point was hospitalized when she became delirious and threatened to kill herself.

Since the age of 16, Jane had gone to therapy to try to help treat her mental health issues. Around this time, Jane also began to be heavily influenced online by sites and groups on Tumblr and other social media platforms that promoted transgenderism as a panacea for people struggling with mental health issues, like depression and anxiety. During her treatment with her first therapist, as this online influence started to sink in, Jane asked the therapist whether he thought she might be transgender. Despite admitting that he did not have much familiarity with the subject matter, the therapist said that he thought she might be since she was "so logical and analytical" (evidently, the therapist thought of logic and analysis as

male-typical traits), but he did not account for the trauma Jane faced every day. Since the therapist did not know much about transgender issues, he referred Jane to a second therapist, who passed her along to the purported experts at one of the most prominent gender clinics in the Midwest.

Jane decided to go to the aforementioned gender clinic. She was entirely open about and shared her highly troubled past and her existing, profound mental health struggles. She relayed that she was not sure she was transgender. Despite all of this, *on her first visit*, the staff at the clinic began referring to her with male pronouns and offered to prescribe her cross-sex hormones. Jane declined the initial invitation since, again, she was not even sure she felt she was transgender. However, she continued to return to the clinic. After a number of additional visits—at each one she again was offered cross-sex hormone prescriptions—she decided that she wanted to try to become a boy. The clinic underplayed the known side-effects, simply reading a list of outcomes and describing them as some minor things that "might" happen. Instead, Jane was told that she would finally get to "experience male puberty."

She did not experience male puberty. She stayed on testosterone and other "gender-affirming" medications for almost six years. And it wrecked her body. Within the past 18 months, Jane decided to detransition and identify as her natural female self. She realized she could never become a man; instead, she can now

appreciate that she was just young, confused, vulnerable, and bisexual and had been seduced and deceived to buy into an idea she could never actually attain.

Life has become exceedingly difficult given the permanent effects of the cross-sex hormones. Her voice has permanently changed—she was a soprano but is now a baritone—and she feels like she does not recognize the voice coming out of her own body, a deeply disturbing reality for her. Others are also taken aback when they see her returning feminine appearance but then "hear a man's voice" when she talks; she suspects she has lost out on three job opportunities because of it. She grew facial hair and has to shave to try to stave off the male appearance it brings. She struggles with eating disorders. She has joint issues, general fatigue, and increased vascularity. She randomly gets extremely nauseous. Jane has vaginal atrophy and other adverse effects in her genitals. And she feels like her brain has been severely compromised.

Once a very successful student and accomplished trombone player who graduated high school early with multiple scholarship offers, Jane now struggles to hold a job. And she is angry. Angry at the doctors who did this to her. Angry that someone with her extreme mental health comorbidities could have been offered life-altering cross-sex hormones after a single visit by the purported experts at a prestigious gender clinic. And she is angry that due to a harsh statute of limitations in her home state of Ohio, she has no recourse in the courts, as she did not realize

the harm and abuse that was inflicted upon her until it was too late under existing Ohio law.

Amici are not alone in their experiences of being misled into life-altering medical interventions to change their bodies to look like the opposite sex. There is a growing body of research pointing to an increasing number of youth and adults who have detransitioned, indicating harm and/or lack of efficacy of the interventions. Vandenbussche 2021, for example, is a survey of 237 detransitioners with 70% reporting that they detransitioned after realizing their gender dysphoria was related to other issues. Levine Declaration, RE 113-5, Page ID # 1436 (citing Elie Vandenbussche, *Detransition-Related Needs and Support: A Cross-Sectional Online Survey*, 69(9) J. Homosex., 1602-1620 (2022), Epub Apr. 30, 2021). And Littman 2021 is a survey of 100 detransitioners where 60% reported "their decision to detransition was motivated (at least in part) by the fact that they had become more comfortable identifying with their natal sex." *Id.* (citing Lisa Littman, *Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition Who Subsequently Detransitioned: A Survey of 100 Detransitioners,* 50(8) Arch. Sex. Behav. 3353-3369 (2021)).

In her study, Dr. Littman found that, as is true of Amici, a majority of the study subjects felt that they had been rushed into medical "gender-affirmative" interventions with irreversible effects without the benefit of adequate psychologic

evaluation. Littman 2021 at 3364-3366. Dr. Littman also found that several of the participants in her study felt pressured to transition from their doctors or therapists. *Id.* at 3366. Thirty-eight percent of participants in Dr. Littman's study said that their gender dysphoria was caused by trauma or mental health issues, and more than half said that transitioning delayed or prevented them from getting treatment for their trauma or mental health issues. *Id.* at 3362.

Similarly, Reddit's "detrans" forum (http://www.reddit.com/r/detrans/) has more than doubled from over 23,000 members in November 2021, to 49,000 members today. One of the entries, titled "Still not me in the mirror" explains the anguish detransitioners face when they realize there is no "reset button" to undo what has happened to them:

> **Still not me in the mirror.**
>
> I had a nice night last night, but this morning I felt disgusting looking at what I've done to myself. Only positive in sight is that it looks like it's probably gotten a small bit better again. I won't know until I take pictures. Either way, I'm pretty sure it'll never be me again. I want very badly to just see me in the mirror and not any of the changes I suffered. It makes me very strongly want surgery. I don't want surgery, but I do want it too. I feel like this is a problem that will never resolve itself and I'll be haunted by it unendingly. I'm certain surgery will not make me really look like myself. It's not a reset button. It's going to just be a new different look. I don't know if that's really what I need. I just don't know if I'll ever answer this question.

Reddit entry by UniquelyDefined,

https://www.reddit.com/r/detrans/comments/10alig1/still_not_me_in_the_mirror/.

Amici, and thousands others like them, were harmed by medicalized "gender transition," not helped by it.

II. The Rising Number of Individuals Experiencing Gender Dysphoria Has Shifted from Adult Men to Teenage Girls.

Gender dysphoria in adolescence has increased and has the markers of a social phenomenon, primarily among girls. First, these adolescents have no history of cross-gender behavior, which is why it is called rapid-onset gender dysphoria (ROGD). Cantor Declaration, RE 113-3, Page ID # 1154; *see also* Parents of Rapid-Onset Gender Dysphoria Kids, https://www.parentsofrogdkids.com/.

Second, the number of adolescents presenting with ROGD has skyrocketed. In 2013, the estimated incidence of gender dysphoria in adults was between .002% and .014% (2 to 14 per 100,000). But these numbers have drastically increased among adolescent populations, with recent surveys estimating that "between 2-9% (2,000 to 9,000 per 100,000) of high-school students self-identify as transgender or gender non-conforming." Levine Declaration, RE 113-5, Page ID # 1429; *see also* Roman Declaration, RE 113-6, Page ID # 1520 (noting 220-fold increase between 2001 and 2021 of gender dysphoric minors in Sweden).

Third, "there has been a marked shift in the sex ratio of patients presenting with gender dysphoria or transgender identification," whereby patients are now mostly biological females by a large margin ("2F:1M generally (but as high as 7F:1M) in more recent samples"). Levine Declaration, RE 113-5, Page ID # 1429.

Fourth, research has shown "'clustering' of new presentations of gender dysphoria among natal females in specific friend groups." *Id.* at Page ID # 1430.

Fifth, the sharp rise in gender dysphoria is tied to teen access to social media "on gender exploration, incongruence, and dysphoria" that is "generally accompanied by passionate advocacy." Nangia Declaration, RE 113-8, Page ID # 1642.

Tennessee's expert Geeta Nangia, M.D., a board-certified child and adolescent psychiatrist who has treated 550 gender dysphoric minors, testified that the "heightened prevalence of gender dysphoria may be attributed to a 'bandwagon effect'"—an influence observed in other mental health conditions such as self-harming behaviors and eating disorders. *Id.* at Page ID # 1646. Likewise, Tennessee's expert Sven Roman, a Swedish child and adolescent psychiatrist, opined that the drastic rise in gender dysphoria "is largely explained as a social contagion." Roman Declaration, RE 113-6, Page ID # 1527.

III. Scientific Evidence Shows Gender Dysphoria Usually Resolves On Its Own, in Which Case Life-Altering Medical Intervention Is Proved Unnecessary and Only Harmful.

Over the last 50 years, numerous scientific studies have shown that gender dysphoria in children is not fixed; rather, the vast majority of prepubertal children with gender dysphoria *who do not socially or medically transition* will stop feeling dysphoric by the time they reach adulthood. Eleven peer-reviewed studies

published between 1972 and 2021 investigated the persistence of childhood-onset gender dysphoria, and all reached the same conclusion: "among prepubescent children who feel dysphoric, the majority cease to want to be the other gender over the course of puberty—ranging from 61-88% desistance across the large, prospective studies." Cantor Declaration, RE 113-3, Page ID # 1147 (listing studies); Hruz Declaration, RE 113-4, Page ID # 1305-1307.[3] No published study has shown otherwise.

Given this evidence, even the Endocrine Society's Clinical Practice Guidelines acknowledge "the large majority (about 85%) of prepubertal children with a childhood diagnosis did not remain GD/gender incongruent in adolescence." Wylie C. Hembree, et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, J. of Clinic. Endocrin. & Metab., 3879 (Nov. 2017). And "it is not yet known how to distinguish those children who will desist from the small minority whose trans identity will persist," Levine Declaration, RE 113-5, Page ID # 1434—something that, again, the Endocrine Society acknowledges. Hembree 2017 at 3876 ("[W]e

[3] Appellees' experts do not dispute these findings or cite an alternative rate of desistance. The most any said, without any specificity, was that "[t]hose studies are subject to criticism for not accurately measuring 'desistance' of transgender identity among children." Janssen Declaration, RE 31, Page ID # 352 n.1. But Dr. Cantor addressed in detail the unfounded criticism of Temple Newhook 2018, Cantor Declaration, RE 113-3, Page ID # 1151-1154, which Appellees' experts do not attempt to defend.

cannot predict the psychosexual outcome for any specific child.").

Yet among children who are *affirmed* in a transgender identity, multiple studies have found that few or none grow into comfort with their biological sex. "The gender identity affirmed during puberty appears to predict the gender identity that will persist into adulthood." Carly Guss, *Transgender and Gender Nonconforming Adolescent Care: Psychosocial and Medical Considerations*, 27(4) Curr. Opin. Pediatr. 421-26, 421 (2015); *see also* Thomas Steensma, *Factors Associated With Desistence and Persistence of Childhood Gender Dysphoria: A Quantitative Follow-Up Study*, 52(6) J. Am. Aca. Child Adolesc. Psychiatry 582-590, 588-89 (2013) (childhood social transitions are "important predictors of persistence"). Available evidence, then, suggests that affirming a transgender identity in children changes outcomes and prevents natural desistence in many children. "[B]ecause the rate of desistance [in the absence of social and medical transition] is so high, gender affirmative therapy will necessarily cause serious and irreversible harm to many children and adolescents who would naturally outgrow the condition if not affirmed." Laidlaw Declaration, RE 113-7, Page ID # 1590.

Although desistance among minors presenting with gender dysphoria in adolescence has not been separately studied, Cantor Declaration, RE 113-3, Page ID # 1155, as described above this condition has the markers of a social phenomenon. Despite the social and cultural influences, there has been little

research into ROGD as a social phenomenon. That's because it's "socially controversial." Levine Declaration, RE 113-5, Page ID # 1435 (quotation omitted). Take Dr. Michael Bailey, a highly regarded professor of psychology at Northwestern University with over 100 academic articles to his name. He had an article on "Rapid Onset Gender Dysphoria: Parent Reports on 1655 Possible Cases" published by the prestigious *Archives of Sexual Behavior.* After an extensive campaign by gender activists, the publisher retracted the article even in the absence of any finding that Dr. Bailey's data was inaccurate, or his analysis faulty. *See* M. Bailey, "My Research on Gender Dysphoria Was Censored. But I Won't Be," *The Free Press* (July 10, 2023). Similarly, a scientific paper on ROGD published by Dr. Lisa Littman "resulted in an unnecessary 'correction' by the journal that published it," and made her continued academic affiliation with Brown University untenable. *Id.* at 4.

Nevertheless, desistance has been "increasingly observed among teens and young adults who first manifest gender dysphoria during or after adolescence." Levine Declaration, RE 113-5, Page ID # 1435. Regarding the research into detransitioners, Dr. Littman observed "[t]his research adds to the existing evidence that gender dysphoria can be temporary." Littman 2021 at 3365. She concluded that "intervening too soon to medicalize gender dysphoric youth risks iatrogenically derailing the development of youth who would otherwise grow up to

be LGB nontransgender adults." *Id.*

In addition, many clinicians have commented on the rising numbers of detransitioners appearing in their clinics. *See, e.g.,* Laura Edwards-Leeper & Erica Anderson, *Mental Health Establishment is Failing Trans Kids*, Wash. Post, Nov. 24, 2021 https://www.washingtonpost.com/outlook/2021/11/24/trans-kids-therapy-psychologist/ (noting "rising number of detransitioners that clinicians report seeing," which is typically "youth who experienced gender dysphoria and other complex mental health issues, rushed to medicalize their bodies and regretted it"); Lisa Marchiano, *Gender Detransition: A Case Study*, 66(4) J. Anal. Psychol. (2021) ("[T]he number of young people detransitioning (reaffirming their natal sex) [] appears to be increasing. Detransitioners are now sharing their stories online and entering therapy."); *see also* R. Hall, et al., *Access to Care and Frequency of Detransition Among a Cohort Discharged by a UK National Adult Gender Identity Clinic: Retrospective Case-Note Review*. 7(6):e184 BJPsych Open. 1-8 (2021) ("detransitioning might be more frequent than previously reported"); Isabel Boyd, et al., *Care of Transgender Patients: A General Practice Quality Improvement Approach*, 10 (1) Healthcare (2022) ("detransition rate found in this population is novel and questions may be raised about the phenomenon of overdiagnosis, overtreatment and iatrogenic harm as found in other medical fields"); Levine Declaration, RE 113-5, Page ID # 1436.

The popular press is filled with accounts of detransitioners who now regret their transition to a transgender identity. *See* Lisa Selin Davis, *The Mainstream Media Needs to Talk About Detransitioners*, Psychreg, last updated Feb. 12, 2023, https://www.psychreg.org/mainstream-media-talk-about-detransitioners/; Ross Pomeroy, *Transgender Detransition Is a Taboo Topic, But Data Shows It's On the Rise*, Big Think, June 20, 2023, https://bigthink.com/health/transgender-detransition/; Lauren Smith, *Detransitioners Can No Longer Be Ignored*, Spiked, Oct. 7, 2022, https://www.spiked-online.com/2022/10/07/detransitioners-can-no-longer-be-ignored/.

Numerous forums and online resources have been established for detransitioners, including: (1) Post Trans, (2) Beyond Trans, (3) a Reddit forum for detransitioners (r/detrans), (4) the Pique Resilience Project, (5) Sex Change Regret, (6) Gender Exploratory Therapy Association/Detransitioners, (7) Life (de)transitions, and (8) Detrans Foundation.[4]

The Swedish National Board of Health and Welfare has recognized "[t]he documented prevalence among young adults of medical detransition." *Care of*

[4] Post Trans, https://post-trans.com/; Beyond Trans, https://beyondtrans.org; Reddit forum; https://www.reddit.com/r/detrans/; Pique Resilience Project, https://www.piqueresproject.com/; Sex Change Regret, https://sexchangeregret.com/; Gender Exploratory Therapy Association/Detransitioners, https://www.genderexploratory.com/detransitioners/, Life (de)transitions, https://lifedetransitions.com/; Detrans Foundation, https://www.detransfoundation.com/.

Children and Adolescents With Gender Dysphoria, Socialstyrelsen, The National Board of Health and Welfare, Dec. 2022. Notably, March 12, 2021, was the first International Detransition Awareness Day. *See* Detrans Awareness Day, https://www.detransawareness.org/; Our Duty, Detransition Awareness Day, https://ourduty.group/2021/03/12/detransition-awareness-day/ ("March 12, 2021 the inaugural 'Detransition Awareness Day', provided an opportunity to raise awareness of detransition and of the stories of detransitioners.")

Beyond desistance and detransitioning, the idea of "gender fluidity" further shows that transgender identities are not necessarily fixed—the concept being that "gender identity is not binary but can span an almost endless range of gender identity self-labels, which a given individual may try on, inhabit, and often discard." Levine Declaration, RE 113-5, Page ID # 1430. "[T]he practice . . . in which some individuals claim to change identities associated with the male and female sexes . . . treat[s] sex as a mutable characteristic." *Adams by & through Kasper v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 803 n.6 (11th Cir. 2022). The changeability of a transgender identity is another reason why intervention to affirm such an identity can cause serious and irreversible harm to those minors who receive it.

CONCLUSION

Amici respectfully submit that this Court should reverse the decision of the district court.

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/s/ Joshua K. Payne

Jordan Campbell
Ronald Miller
Daniel Sepulveda
Campbell Miller Payne, PLLC
5955 Alpha Rd #1491
Dallas, Texas 75240
Telephone: (214) 316-7156
jordan@cmppllc.com
ron@cmppllc.com
daniel@cmppllc.com

Joshua K. Payne
Campbell Miller Payne, PLLC
5955 Alpha Rd #1491
Dallas, Texas 75240
Telephone: (214) 316-7156
josh@cmppllc.com

Counsel for Amici Curiae

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/s/ Joshua K. Payne
Joshua K. Payne

CERTIFICATE OF SERVICE

I, Joshua K. Payne, an attorney, certify that on this day the foregoing Brief was served electronically on all parties via CM/ECF.

Dated: July 24, 2023.

/s/ Joshua K. Payne
Joshua K. Payne