

No. 24-142

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

◆

PAM POE, by and through her parents and next
friends, Penny and Peter Poe, et al.,
Plaintiffs-Appellees,

v.

RAUL LABRADOR, in his official capacity as
Attorney General of the State of Idaho,
Defendant-Appellant,

and

JAN M. BENNETTS, in her official capacity as
County Prosecuting Attorney for Ada, Idaho, et al.,
Defendants.

◆

On Appeal from the United States District Court for
the District of Idaho, Case No. 1:23-cv-00269-BLW

**BRIEF OF AMICI CURIAE BILLY BURLEIGH, LAURA REYNOLDS,
KATHYGRACE DUNCAN, AMANDA STEWART, AND JANE SMITH IN
SUPPORT OF DEFENDANT-APPELLANT SEEKING REVERSAL**

February 12, 2024

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STATEMENT OF INTEREST OF AMICI

Amici Billy Burleigh, Laura Reynolds, KathyGrace Duncan, Amanda Stewart, and Jane Smith (pseudonym)¹ respectfully submit this brief in support of Defendant-Appellant seeking reversal. Plaintiffs-Appellees and Defendant-Appellant have consented to this filing.²

Amici experienced gender dysphoria when they were adolescents and young adults. They were led to believe that “affirming” 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 caused physical harm and increased their distress 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 transition, and the scientific evidence showing childhood gender dysphoria often

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.

resolves without medical intervention.

ARGUMENT

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

A. Amici Were Harmed by “Gender Transition” Procedures.

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 caused physical harm and increased their distress 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 Billy 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.

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 of 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 spent 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 Catholic Church as a nun. 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. 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 experienced complications from the surgery and 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 two years, 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 that 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.

B. Amici Are Representative of Thousands of Individuals Who Likewise Were Harmed by “Gender Transition” Procedures.

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.

A growing body of research indicates that an increasing number of youth and adults are detransitioning, indicating harm and/or lack of efficacy of the interventions. Vandebussche 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. Elie Vandebussche, *Detransition-Related Needs and Support: A Cross-Sectional Online Survey*, 69(9) J. Homosex., 1602-1620, 1606 (2022), Epub Apr. 30, 2021. And Littman 2021 is a survey of 100 detransitioners where 60% reported their decision to detransition was motivated by the fact that they “became comfortable identifying with their natal sex.” 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, 3361 (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 3361-3362.

Similarly, Reddit’s “detrans” forum (<http://www.reddit.com/r/detrans/>) has more than doubled from over 23,000 members in November 2021, to 52,000 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 of others like them, were harmed by medicalized “gender transition,” not helped by it.

II. 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 gender 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.” Expert Decl. of James Cantor, PhD in *L.W., et al. v. Skrmetti, et al.*, No. 3:23-cv-00376 (M.D. Tenn.), ECF 113-3 at 59 (listing studies). No published study has shown otherwise.

Given this evidence, 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*, 102(11) *J. of Clinic. Endocrin. & Metab.* 3869-3903, 3879 (2017).

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, et al., *Transgender and Gender Nonconforming Adolescent Care: Psychosocial and Medical Considerations*, 27(4) *Curr. Opin. Pediatr.* 421-26, 421 (2015); *see also* Thomas D. Steensma, et al., *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. Dr. Littman observed that her research into detransitioners “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, *The 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. of Anal. Psychol.* 813-832, 814 (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, 1 (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* 121 (2022) (“[T]he detransition rate found in this population is novel and questions may be raised about the phenomenon of overdiagnosis, overtreatment, or iatrogenic harm as found in other medical fields.”); Pamela Paul, *As Kids, They Thought They Were*

Trans. They No Longer Do., N.Y. Times, Feb. 2, 2024,

<https://www.nytimes.com/2024/02/02/opinion/transgender-children-gender-dysphoria.html> (recounting the negative effects of “unproven treatments for children”).

Scientific evidence, as well as the experiences of Amici and other detransitioners, supports Idaho’s legislative judgment that children deserve to grow up in a truly supportive environment where they are loved for who they are, and no one tries to change them into someone else through harmful medical procedures.

CONCLUSION

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

Dated: February 12, 2024.

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CERTIFICATE OF COMPLIANCE

9th Cir. Case Number(s) 24-142

I am the attorney or self-represented party.

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Signature /s/ Joshua K. Payne Date February 12, 2024

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2024, I electronically filed the amicus brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system, which will accomplish service on counsel for all parties through the Court's electronic filing system.

Dated: February 12, 2024.

/s/ Joshua K. Payne
Joshua K. Payne