

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

F.F., a minor, by and through her next) No. 25 CV 9112
friend and father JAMES ELLARD FISHER,)
individually, and on behalf of all)
others similarly situated,)
Plaintiffs,)
v.)
VALLEY VIEW COMMUNITY UNIT SCHOOL)
DISTRICT 365U, et al.,) Chicago, Illinois
Defendants.) September 17, 2025
11:00 a.m.

TRANSCRIPT OF PROCEEDINGS - ORAL ARGUMENT
BEFORE THE HONORABLE SHARON JOHNSON COLEMAN

APPEARANCES:

For the Plaintiffs: THE LAW OFFICES OF AJAY GUPTA
BY: MR. AJAY GUPTA
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Naperville, Illinois 60563

For the Defendants: TRESSLER, LLP
BY: MS. DARCY L. PROCTOR
MR. ALEXANDER T. MYERS
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Also Present: Ms. April Marie Johnson, Paralegal

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PROCEEDINGS REPORTED BY STENOTYPE
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1 (Proceedings heard in open court:)

2 THE CLERK: 25 CV 9112, F.F. versus Valley View
3 Community Unit School District 365.

4 THE COURT: All right. Counsel. Go ahead. State
5 your name.

6 MR. GUPTA: Good morning, Your Honor. Ajay Gupta on
7 behalf of the minor plaintiff F.F. and the proposed class. And
8 I'm accompanied by our paralegal, who will introduce herself.

9 THE COURT: What's your name?

10 MS. JOHNSON: My name is April Marie Johnson, Your
11 Honor.

12 THE COURT: All right. Thank you. Good last name.
13 You may have a seat. All right. Have a seat. All right.

14 MS. PROCTOR: Good morning, Your Honor. Darcy
15 Proctor, P-R-O-C-T-O-R. I'm here on behalf of the defendants,
16 along with my colleague.

17 THE COURT: Your name?

18 MR. MYERS: Good morning, Your Honor. My name is
19 Alexander Myers. Also on behalf of the defendants.

20 THE COURT: All right. Thank you very much. And if
21 you need to have a seat, you can. So since this is a hearing
22 on the plaintiffs' motion for preliminary injunction, the Court
23 is going to give you each 10 minutes to make those
24 presentations. And then, plaintiff, you will get an additional
25 five minutes to respond. All right?

1 MR. GUPTA: Thank you, Your Honor.

2 THE COURT: All right. You can have a seat, if you
3 wish.

4 MS. PROCTOR: Thank you.

5 THE COURT: No problem. All right. Anytime you're
6 ready, Counsel.

7 MR. GUPTA: So, Your Honor, this is the defendants'
8 response, 114 pages. And without the exhibits, their response
9 runs to 20 pages, 7,250 words. Preceding the filing of that
10 response, there has been 10 months of interaction between my
11 client F.F., her father, who has brought the action on her
12 behalf, and School District officials and Bolingbrook High
13 School officials. Not once in those 10 months, not once in
14 those 114 pages, not once in those 7,250 words is there any
15 mention of any criteria that the defendants apply before
16 granting access to female-only spaces to males. Not one
17 mention.

18 No mention of gender dysphoria. No mention of
19 consistent gender expression. No mention of any recognized
20 gender identity. Instead they are resorting to conclusory
21 labels, circular reasoning, and some mind-bending logic.

22 THE COURT: Okay. You've given me some great argument
23 to start out here with. Why don't you just -- let's go down to
24 something a little more brass tacks.

25 MR. GUPTA: Absolutely, Your Honor.

1 THE COURT: Tell me what your claim is for this
2 preliminary injunction.

3 MR. GUPTA: So as we said in our motion accompanied by
4 the declarations and in our reply, my client encountered a
5 male, an obvious male.

6 THE COURT: Your client is female?

7 MR. GUPTA: My client is female. A minor female.

8 THE COURT: All right.

9 MR. GUPTA: Who encountered an obvious male with no
10 outward indicia of female identity.

11 THE COURT: Okay. Again, I'm a former Appellate Court
12 judge in state court, so I'm sorry if I interrupt, but that's
13 what I do. So when you say obvious male, was the person naked?

14 MR. GUPTA: Dressed like a male.

15 THE COURT: No, I didn't ask you that. Was the person
16 naked?

17 MR. GUPTA: No.

18 THE COURT: All right. So what was obvious about them
19 that showed their maleness?

20 MR. GUPTA: Dressed like a male.

21 THE COURT: What is that?

22 MR. GUPTA: I'm sorry?

23 THE COURT: What is that? Dressed like a male. I
24 mean, I just had another AUSA in here in a full suit, and you
25 can you say she was dressed like a male.

1 MR. GUPTA: But, Your Honor, there was nothing
2 outwardly about that individual that suggested a female
3 identity.

4 THE COURT: I'm just wondering what does suggest a
5 female identity by dressing alone. What, what is it that let's
6 you know they're a female? What if they come into the bathroom
7 in jeans and a T-shirt? Is that dressing like a male, or is
8 that dressing like a teenager? I just -- I'm just trying to
9 ask to get the real deal here.

10 MR. GUPTA: Your Honor, visually there was nothing
11 about the individual that suggested female. Nothing about the
12 way the person spoke.

13 THE COURT: So --

14 MR. GUPTA: Nothing about the way the person talked.

15 THE COURT: Okay. So going back to this again. You
16 said this was an obvious male in the bathroom, and it's by how
17 they're dressed. And I just asked. As far as I know, I don't
18 think teenagers have changed that much. I'm not that old. So
19 baggie jeans, baggie shirts, all that stuff, that's pretty
20 common girls and boys. So what was it about her, this -- or
21 him that made your client say they were obviously a male?

22 MR. GUPTA: There was no attempt to identify as a
23 female.

24 THE COURT: Okay. Go ahead with your argument.

25 MR. GUPTA: The person is known as a male.

1 THE COURT: The person is known as a male?

2 MR. GUPTA: Yes.

3 THE COURT: Okay.

4 MR. GUPTA: The person is known as a male in the
5 school community.

6 THE COURT: And when you say known, again, what does
7 that mean? Known as a male, like they are named -- the name
8 and --

9 MR. GUPTA: Yes.

10 THE COURT: And they've identified themselves as a
11 male to anybody -- other people in the community?

12 MR. GUPTA: Yes.

13 THE COURT: All right. Go from that. Now go ahead.

14 MR. GUPTA: So as I said, no indicia of any female
15 identity. So instead of refuting that characterization in our
16 motion and in the declaration, the defendants simply
17 mischaracterize it by calling the student transgender. There's
18 nothing suggesting transgender about that individual. So
19 simply affixing a label, call that person transgender seems to
20 be a way to define away the problem.

21 And their reasoning goes something like this: The
22 person expressed a preference to use female-only spaces. The
23 person must be transgender. Such a person must be given access
24 to female-only spaces. Why? Because the person is
25 transgender. It is entirely circular. Because they have not

1 identified any objective criteria that they apply before they
2 grant access to a male to female-only spaces. As I said, no
3 mention of any gender dysphoria, any diagnosis of it. No
4 requirement of a consistent gender expression. No requirement
5 of a recognized gender identity.

6 In fact, as we said, and as one of the declarations in
7 our brief suggests -- or says, initially, initially when Mr.
8 Fisher contacted the school principal, he was told that this
9 person has access only to the girls' restroom, not to the
10 changing room, not to the showers, not to the locker rooms.
11 Only to the girls' restroom.

12 THE COURT: The girls' restroom that is unlike a
13 urinal in a boys' bathroom, it has stalls that have doors on
14 them, is that correct?

15 MR. GUPTA: Yes. But there are stalls in the locker
16 rooms also.

17 THE COURT: Yes. But that is one difference, though,
18 correct? There's stalls in the lock -- there may be stalls in
19 the locker room. There's also showers in the locker room.
20 There's other things in the locker rooms, correct?

21 MR. GUPTA: Yes.

22 THE COURT: All right. But they said their focus --
23 this is the defendants are saying, their focus is on the
24 bathroom where there were stalls on the bathroom, is that
25 correct?

1 MR. GUPTA: That's right, Your Honor.

2 THE COURT: All right.

3 MR. GUPTA: But this is --

4 THE COURT: Wasn't there other options given by the
5 defense as to how to adjust this problem, or no?

6 MR. GUPTA: I'm not sure I understood the question.

7 THE COURT: Meaning weren't there -- didn't the
8 defendants also have a solution to the issue, or no? Did they
9 address it at all? That's my question to you.

10 MR. GUPTA: The defendants' solution was that my
11 client can access a gender-neutral restroom, or they could make
12 the, the gaps in the, in the toilet stalls -- they could mask
13 the gaps in the toilet stall by putting rubber strips on the
14 sides.

15 THE COURT: Isn't that what your client wants, is a
16 gender-neutral bathroom? Isn't that what she wants? She only
17 wants to have a place where she believes women are, is that
18 right?

19 MR. GUPTA: She wants access to the girls-only
20 restroom, Your Honor.

21 THE COURT: Right. Because she only wants girls in
22 there, correct?

23 MR. GUPTA: Exactly right.

24 THE COURT: And what's her anxiety based on girls? Is
25 there some assumption that only girls might want to see her

1 pull her pants down?

2 MR. GUPTA: Well, the girls-only restroom is supposed
3 to be only for girls.

4 THE COURT: Right. But I guess the question -- that
5 you're saying based on what I'm reading is that she has some
6 anxieties, she had some issues, boys being able to see through
7 the gaps, correct?

8 MR. GUPTA: She does not want to be confronted in a
9 girls-only restroom by a male who is a biological male and a
10 social male.

11 THE COURT: Does that include the possibility that
12 what if it's a female that has so-called, as you're saying, the
13 physique of a female, but what if that female is into girls and
14 wants to peek at her in a way that she's saying that a boy
15 might peek at her?

16 MR. GUPTA: That's not the concern, Your Honor. The
17 concern --

18 THE COURT: Why not? That seems like she's, she's
19 having anxiety that somebody's looking at her. She's afraid to
20 take her pants down because somebody's looking at her, and
21 she's saying it's because a boy is looking at her. I'm just
22 trying to figure out is there a presumption that there's only
23 going to be a boy who would look at her like that, as opposed
24 to there being a girl who might look at her like that? That
25 sounds like that's the presumption to me.

1 MR. GUPTA: No, Your Honor.

2 THE COURT: Okay.

3 MR. GUPTA: The restroom says girls only.

4 THE COURT: It does.

5 MR. GUPTA: The expected --

6 THE COURT: So your client would be comfortable if it
7 doesn't distinguish at all? That if some girl came in there
8 and was looking through these so-called large gaps, which I
9 don't know if I really understand what that is, but these large
10 gaps, and is looking at her while she's in the bathroom, so
11 your client would be totally fine with that, if a girl was
12 staring at her?

13 MR. GUPTA: I'm not saying she would be totally fine
14 with that.

15 THE COURT: I guess she wouldn't, not based on what
16 I'm reading.

17 MR. GUPTA: Right. Students are --

18 THE COURT: She seems like she has an issue with
19 anybody looking at her in any type of way that she feels may be
20 sexual or unwarranted, correct?

21 MR. GUPTA: Your Honor, students at that age are
22 uncomfortable for a host of reasons.

23 THE COURT: That's a very true statement.

24 MR. GUPTA: And they are uncomfortable in many
25 different places.

1 THE COURT: They are uncomfortable in, in locker rooms
2 too, correct?

3 MR. GUPTA: Absolutely right.

4 THE COURT: And changing their clothes in gym?

5 MR. GUPTA: Absolutely right.

6 THE COURT: All right.

7 MR. GUPTA: But when --

8 THE COURT: And so the girls' room -- so how do
9 they -- how does the school adjust for that just because
10 somebody has a high level of, you know, lack of self-confidence
11 or lack of body image or whatever issue they have, how do they
12 adjust for that?

13 MR. GUPTA: That's not the point. The point is that
14 the facility says girls only, right. Schools have made these
15 facilities available in order to alleviate some of these
16 concerns. A facility says girls only. The expectation going
17 in is that there will be only girls. It's not going to address
18 all her concerns. She may have other anxieties -- reasons for
19 being anxious. But when a facility says girls only, the
20 expectation going in is that she's only going to encounter
21 girls.

22 Now, we understand that there may be individuals whose
23 biological sex may be different. But nonetheless, they are
24 identifying as females. And if that's the position the School
25 District wants to take, that's a completely different position.

1 What we are arguing here is there is no articulable criteria.
2 They have not pointed to one single criterion on the basis of
3 which they decide whether a male should have access to
4 female-only spaces. What that leads to essentially is any male
5 by expressing a preference to use these facilities is able to
6 get access.

7 THE COURT: What policy are they violating under your
8 argument?

9 MR. GUPTA: They're violating equal protection, and
10 they're violating Title IX.

11 THE COURT: All right. And tell me a little bit more
12 about your basis for saying they're violating equal protection
13 and how you meet the criteria for a preliminary injunction, one
14 of which is the likelihood to succeed on the merits.

15 MR. GUPTA: So, Your Honor, Title IX clearly
16 envisions --

17 THE COURT: I didn't say Title IX. I asked you about
18 equal protection.

19 MR. GUPTA: Okay. I'll begin with equal protection,
20 right.

21 THE COURT: Yes.

22 MR. GUPTA: Equal protection requires that there be an
23 exceedingly persuasive justification for discriminating on the
24 basis of sex. Now, the background here is that we have
25 segregated facilities, sex-segregated facilities. The only

1 reason for having sex-segregated facilities is to keep the
2 other sex out. Otherwise it makes no sense to have a
3 sex-segregated facility. So that is the background.

4 Now, if, if sex-segregated facilities are being
5 identified for what I would call invasion or intrusion by the,
6 by the other sex based on sex, then that's a violation of equal
7 protection.

8 THE COURT: All right.

9 MR. GUPTA: So that's our equal protection argument.

10 THE COURT: All right. Go onto your Title IX.

11 MR. GUPTA: Title IX is clear, Your Honor. 20 U.S.C.
12 1686 clearly envisages segregated facilities. And the
13 accompanying regulation, 34 CFR 106.33 says if you have
14 segregated facilities, they should be comparable. You can't
15 have male-only restrooms that are way better than female-only
16 restrooms. They have to be comparable. If you have a --

17 THE COURT: And what are you telling me how that
18 what's happening in this situation that makes them not
19 comparable?

20 MR. GUPTA: Well, they're not even -- they're not even
21 attempting to adhere to the, the name of the facility. If it
22 pretends to be sex only but it is not sex only, that's clearly
23 not comparable. You have -- if you're saying it's sex only --
24 it's female-only, it has to exclude the other sex.

25 THE COURT: All right. All right. I believe we

1 have -- you have one more minute or so to wind up your
2 arguments, and then you can respond to whatever they say.

3 MR. GUPTA: Absolutely. Thank you, Your Honor.

4 THE COURT: You're welcome.

5 MR. GUPTA: So, so they did not even attempt to rebut
6 the assertion in the declaration that the individual that my
7 client encountered presented himself as male. There is no
8 rebuttal of that assertion. So for purposes of this
9 preliminary injunction that has to be taken as a fact. Given
10 that fact, I think our task is fairly easy. What is happening
11 then, if we take that statement as fact, what is happening is
12 any male willy-nilly can enter a female-only space. Surely
13 that violates equal protection and that violates Title IX.

14 We're asking for a preliminary injunction that enjoins
15 the school district from allowing males access to female-only
16 spaces until such time as they have articulated a policy.
17 What criteria are they using to decide to grant males access to
18 female-only spaces?

19 THE COURT: All right.

20 MR. GUPTA: Thank you.

21 THE COURT: Thank you very much, Counsel. All right.
22 Defense, you also have 10 minutes.

23 MS. PROCTOR: Good morning, Your Honor. Plaintiffs'
24 preliminary injunction -- motion for preliminary injunction
25 should be denied for three reasons. First, they have not

1 demonstrated that they are likely to succeed on the merits.
2 They have not demonstrated that plaintiff is likely to suffer
3 irreparable harm if the preliminary injunction is not granted.
4 And the granting of the injunction in this case would not be in
5 the public interest. In fact, it would accomplish just the
6 opposite.

7 You know, granting a preliminary injunction under
8 these facts in this case, as we understand it, would have the
9 opposite effect. Schools have to protect civil and
10 constitutional rights as established by the Illinois
11 legislature, and as well as the Seventh Circuit precedent. So
12 first plaintiff cannot show any success on their equal
13 protection or Title IX claim. Both claims require unequal
14 treatment on the basis of sex.

15 Here this -- to be clear, I don't know that I was
16 following opposing counsel's argument. Based on the complaint
17 and plaintiffs' arguments in the briefing, this case is about
18 the plaintiff F.F. not wanting to share a girls' restroom with
19 students who are not female at birth but who identify as male.
20 In other words, plaintiff does not want to share a female
21 restroom with transgender females. The instance that was
22 reported involved a transgender female, a student who
23 identified as a female. The, the --

24 THE COURT: So I do want to ask, so the same question
25 I asked him, to be fair. So one of the questions was, okay.

1 The way he made it sound, it was obviously -- the person was
2 obviously male. So if we just took that argument that he
3 makes, where do we go with this case?

4 MS. PROCTOR: The -- that sounds like a sexual
5 stereotype to me as well as, as the, the case law, Your Honor.
6 And not being there at the time of the event --

7 THE COURT: Because otherwise, otherwise how do we
8 know what sex the person is? They came in the bathroom, girls'
9 bathroom because they came in the girls' bathroom. Assuming --
10 I'm assuming that they are saying this is where I belong,
11 right? So how else does his client or anyone who has the
12 issues that his client would have, the class he wants to
13 represent, would they know that this person is not female based
14 on his arguments?

15 MS. PROCTOR: I don't know that I know how to answer
16 that, Your Honor. All I know is the instance we are talking
17 about, the complaint that was raised by F.F. and her father in
18 this case involved a transgender female student. And that's --

19 THE COURT: All right. So there's no doubt that this
20 student is transgender?

21 MS. PROCTOR: No doubt.

22 THE COURT: All right. Then go ahead.

23 MS. PROCTOR: And with respect to the criteria, I
24 think --

25 THE COURT: Wait. Wait. Let me ask this too. When

1 they say there's no doubt, so as Counsel got around to a little
2 bit, it was known in the school that this person was
3 transgender?

4 MS. PROCTOR: I don't -- look, transgender students
5 have privacy rights. How much they choose to share with the
6 school is really between the student and the school. As set
7 forth in the affidavit of the school principal, when a student
8 comes forward and identifies as transgender and requests
9 bathroom access to a restroom that aligns with their gender
10 identity, not their identity at birth, then in that instance a
11 gender support plan is developed and support is given by staff
12 for the transgender need.

13 So, in other words, in, in this instance -- and we
14 need to be careful because this transgender student has rights.

15 THE COURT: Right.

16 MS. PROCTOR: Right. But I'm explaining the process
17 for the school, the process that they use to, to manage
18 students who come forward and identify as transgender.

19 THE COURT: So if this student --

20 MS. PROCTOR: And it's --

21 THE COURT: So if this student would not have come
22 forth and made this pronouncement, and so he did not have the
23 support from the staff on trying to help out with this
24 transition or this situation in school, the practice would be
25 that just any male person could not just stroll into the girls'

1 bathroom, correct?

2 MS. PROCTOR: That's correct. And they would be
3 disciplined accordingly.

4 THE COURT: All right. That's what I'm asking. So
5 that's in place.

6 MS. PROCTOR: Yes.

7 THE COURT: And so when they -- so when he says, and
8 it took him a little while for counsel to say this, but this
9 was well known. Instead of just saying she's obviously, you
10 know, a, a male that's transitioning, that's what I think he
11 was trying to say, but -- when he said obviously. But this
12 isn't obvious. This is something that was known to someone.
13 And then she sees this person -- his client sees this person
14 through the cracks, says -- identifies this person as they
15 shouldn't be in the bathroom because I know they're male,
16 basically isn't that what happened?

17 MS. PROCTOR: That's what plaintiff is claiming
18 happened.

19 THE COURT: Yes. That she could see this person who
20 was in the girls' bathroom that she's saying isn't a girl
21 because she somehow knows this already. She's not a girl, and
22 that's what gets her really upset, because this is a
23 transsexual as opposed to someone who at birth was a girl.

24 MS. PROCTOR: That's the heart of the argument as we
25 understood it, Your Honor. And under the case law in the

1 Seventh Circuit, as well as the provisions in the Illinois
2 Human Rights Act, schools cannot discriminate against
3 transgender students. And Whitaker, as well as Martinsville
4 make clear that policies which exclude transgender students
5 from the bathroom facilities that align with the gender that
6 they identify with violate the law.

7 So, you know, on one hand we have those concerns and
8 the law that schools must follow. And, on the other hand, we
9 have apparently what would appear to be as alleged privacy
10 concerns on the part of F.F. And the case law Whitaker
11 addresses it as well as Martinsville. Privacy concerns don't
12 make a constitutional right. They don't form a basis of a
13 claim for equal protection or a violation of Title IX, because
14 there is no discrimination based on sex. All students are --

15 THE COURT: So let me ask you. Didn't your clients,
16 the defendants offer some alternatives?

17 MS. PROCTOR: Yes, they did to address those
18 privacy --

19 THE COURT: Those privacy concerns --

20 MS. PROCTOR: -- concerns.

21 THE COURT: -- of F.F.

22 MS. PROCTOR: They met with the parents. They had
23 their staff install rubber blinders, material in, in the small
24 openings in the bathroom stalls in the female restrooms. Now,
25 the female restrooms are, it's -- they're implicitly private

1 because there are only stalls available to do whatever needs to
2 be done in a, in a restroom. They went -- they took that extra
3 step given F.F.'s concerns and installed these privacy
4 blinders. And I think plaintiff's response in her affidavit
5 was, well, someone could see -- someone, not, not just someone
6 who she perceives as male, could come into the bathroom and
7 look under it and maybe look over it.

8 Well, that's been the way bathrooms have been set up
9 for as long as modern bathrooms have been in existence
10 anywhere, not just school, school facilities. So that was
11 done. They also again met with the parents, and they offered
12 F.F. access to multiple private restrooms throughout the
13 campus. The affidavit establishes, and it's not refuted, that
14 the bathrooms were within 100 feet of wherever F.F. needed to
15 be on campus, and that she could -- in order to gain access,
16 she would have to ask a staff member, or she was offered a key.

17 Now, I think plaintiff disputes being offered the key.
18 I'm representing to the Court as an officer of the Court that
19 the key is available. It's still available to F.F., and it's
20 hers to use. And under the law that -- you know, that is a
21 reasonable response. I mean, what we're really talking about
22 here is on one hand protecting the rights of transgender
23 students, as they must, as they must, but also address F.F.'s
24 privacy concerns without infringing on transgenders' rights and
25 their access to restroom facilities in schools.

1 So for all these reasons we don't believe plaintiff
2 has established a violation of Title IX or a violation of equal
3 protection based on the facts before this Court, and for that
4 reason has not established a likelihood of success on the
5 merits. Even if plaintiff could establish success on the
6 merits, which we don't believe she has done, that third
7 balancing factor gives this Court, as you are well aware, the
8 ability to balance the needs of the parties before the Court
9 and make decisions and, and assess whether the preliminary
10 injunction, if granted, would further the public interest.

11 As I stated in the beginning, if the preliminary
12 injunction is granted, it would, it would go against the public
13 interest, which schools have in following the law and
14 protecting the rights of transgender students, whether the
15 plaintiff F.F. or the father, who is also a party and initiated
16 the lawsuit on his daughter's behalf, whether they like it or
17 not. Thank you.

18 THE COURT: Thank you very much. Thank you. Counsel,
19 you may respond for the plaintiff. Can you make sure you
20 address in your short time the cases here.

21 MR. GUPTA: Absolutely, Your Honor.

22 THE COURT: Particularly Whitaker.

23 MR. GUPTA: So, Your Honor, as I said when I spoke
24 earlier, defendants are using the term transgender as a
25 conclusory label. It defies logic that a student who has been

1 given access only to the girls' restroom, not --

2 THE COURT: Go ahead.

3 MR. GUPTA: -- not to the girls' locker room, not to
4 the girls' showers, not to the girls' changing room somehow
5 consistently identifies as female. As I said, the logic is
6 entirely circular. Any male student comes up and says I want
7 access, you must be transgender. That's why you're requesting
8 access. You're granted access why? Because you're
9 transgender. Transgender has to mean something. And at a
10 minimum it has to mean consistent gender identity.

11 So transgender is simply being used as a conclusory
12 label in this case, and that is why we say the school, the
13 school district should come up with some articulable criteria
14 that they are applying to determine which male gets access to
15 female-only spaces. And that brings me to the --

16 THE COURT: Counsel, but didn't she -- didn't counsel
17 for defense just say, hey, they have a process in place so no
18 one male can just walk into a bathroom and all of a sudden say,
19 oh, I'm transgender? That no male can just walk into a
20 bathroom unless they have already put this mechanism and this
21 process in place?

22 MR. GUPTA: Your Honor, they're making it up as they
23 go along.

24 THE COURT: Are they?

25 MR. GUPTA: Yes.

1 THE COURT: All right.

2 MR. GUPTA: When my client's father first spoke -- as
3 he says in his declaration, when he first spoke with the school
4 principal, the school principal says only one male student has
5 been granted access and only to the girls' restroom. That is
6 November of 2024. By March 20th of 2025 they're saying we
7 don't know how many students have been granted access. We will
8 have to go through their independent development plans.

9 By the time that the principal files his declaration
10 here on August 28th, not only are there transgender women that
11 are going into female-only spaces, there are transgender boys
12 who are going into male-only spaces. And that declaration is
13 the first time anybody from the School District has used the
14 term gender support plan. Up until then it has been
15 independent development plans. There is no articulable
16 criteria that they are applying.

17 Everything is obfuscation. At the most they print out
18 the non-regulatory guidance from the Illinois Department of
19 Human Rights, and they waive that as their policy. It's
20 unclear even if you were to apply that policy that such access
21 would be permissible. But regardless, that makes no
22 difference. What non-regulatory guidance from the State of
23 Illinois says has nothing to do with whether Title IX has been
24 violated or the Equal Protection Clause has been violated.

25 And with respect to Your Honor's question about the

1 case law, Martinsville went to great lengths to say that these
2 students have demonstrated that they identify consistently with
3 the other sex. Name changes, legal name changes, medical
4 treatment, an absolute aversion to use the facilities that are
5 intended for their birth sex. And the Court went to great
6 lengths to say this is not a case where somebody can
7 willy-nilly access the other -- the facility reserved for the
8 other sex.

9 THE COURT: So basically are you telling me that if
10 according to you all the boxes were checked on this person's
11 identity change, that he's done everything right, or she has
12 done thing right so that everybody would be aware of what this
13 person's sex is now claimed to be, your client and her father
14 would have no problem with this?

15 MR. GUPTA: I'm not saying they would have no problem,
16 Your Honor. I'm simply asking for the relief that we have
17 asked in our motion for a preliminary injunction.

18 THE COURT: Which is what again?

19 MR. GUPTA: Which is that they be enjoined from
20 allowing males access to female-only spaces until they have
21 formulated some policy that identifies some criteria that
22 they're applying.

23 THE COURT: And you're saying they don't have a policy
24 even though they say they do?

25 MR. GUPTA: Let us hear what the criteria is that they

1 are applying.

2 THE COURT: All right. Thank you. You know, if you
3 want to stand there for one second, I have a little bit of
4 time. If you wish, I'll give you two minutes, and then two
5 minutes more if I need it. You both can stay up at the
6 podiums, if you like, because this is quick.

7 MS. PROCTOR: Your Honor, the Martinsville case makes
8 clear that there is no legal floor that the school needs --
9 need to require for a student to prove their gender identity.
10 The Courts have left that decision up to the schools. So
11 plaintiffs' demand for criteria or more definitive criteria has
12 actually been held unlawful by Courts. You can't -- they leave
13 the decision and the support and, and the -- they leave the
14 process up to the schools. And there is a process. It's
15 un rebutted in the affidavit of Jason Pascavage, the principal
16 of Bolingbrook High School.

17 They have a process of students sharing their gender
18 identity preference with the school. A support plan is
19 developed through this gender support plan, which is a process
20 that is recommended by the Illinois Association of School
21 Boards. That is Exhibit 7 to the District's response. It's,
22 it's a resource that schools across the State of Illinois rely
23 on in supporting transgender students. So this claim that we
24 should be enjoined from allowing transgender students to access
25 bathrooms that align with their gender identity, that there

1 should be a more definitive criteria, that's left to the
2 schools to decide. And the lack of a definitive criteria, even
3 if we accept that argument, does not violate equal protection
4 or Title IX, which are the claims before this Court.

5 THE COURT: Thank you. Any further word? You've got
6 two minutes at most.

7 MR. GUPTA: Yes, Your Honor. Simply because a student
8 goes up and they check a box on a form doesn't mean they're
9 applying any criteria.

10 THE COURT: Wait. Wait. Is that what you're saying?
11 That's only because they check a box on a form? It sounds like
12 to me they do more than that. They actually -- it sounds like
13 they have a meeting. They talk to the child. They talk to the
14 parents of that child. They do have something more involved.
15 The teachers are involved. What, what else are you saying
16 needs to be done?

17 MR. GUPTA: Well, how does one explain the fact that
18 this student is granted access only to the girls' restroom and
19 not to the other female-only facilities? Does this mean --

20 THE COURT: So that's, that's your argument? That
21 they're not --

22 MR. GUPTA: No. I'm --

23 THE COURT: They're not given access to the girls'
24 locker room? That's the problem?

25 MR. GUPTA: No. I am simply saying that there is no

1 requirement for a consistent gender identity, a consistent
2 gender expression. There is no objective criteria.

3 THE COURT: Okay.

4 MR. GUPTA: They are simply hiding behind whatever
5 that they're trying to do. They print out the, the
6 non-regulatory guidance from the Illinois Department of Human
7 Rights, and they wave that. And they hide behind the
8 conclusory label transgender. What is it that they, that they
9 do? And what, what threshold has to be met before a male gets
10 access to a female-only facility? The articulable criteria
11 will be helpful to everyone.

12 THE COURT: And, Counsel, let me ask you this because
13 you didn't really go into it: When you talk about irreparable
14 harm, what are you claiming is the harm to your client?

15 MR. GUPTA: The harm to the client is not knowing, not
16 knowing whether she will encounter a male who presents himself
17 as a male in a female-only space. My client is going to on the
18 10th of October become an adult. She turns 18. The student
19 that she encountered is also a senior. He may well already be
20 an adult right now. And if an adult male who presents himself
21 as a male has access to female-only spaces where minors are
22 present, that's a harm to my client --

23 THE COURT: Once again I'm going to go back to my
24 question that started this whole thing out. So you're making
25 an assumption that just because a male is in there, if they are

1 indeed a male, but just because a male is in there, that your
2 client is now in harm's way in a girls' bathroom that she might
3 not be in if there was just another girl there who may like
4 girls.

5 MR. GUPTA: Your Honor, that's only point of having
6 female-only facilities.

7 THE COURT: I get your argument, and I will rule on
8 this hopefully within a week or so. All right.

9 MR. GUPTA: Thank you.

10 THE COURT: Thank you very much for your
11 presentations. Thank you.

12 (Concluded at 11:08 a.m.)

13 * * * * *

14 I certify that the foregoing is a correct transcript of the
15 record of proceedings in the above-entitled matter.

16
17 /s/ TRACEY D. McCULLOUGH
18 TRACEY D. McCULLOUGH, CSR, RPR
Official Court Reporter

October 2, 2025