

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**DECLARATION OF RAYMOND
EDWIN MABUS, JR. IN SUPPORT OF
PLAINTIFFS’ OPPOSITION TO
MOTION TO DISMISS**

I, Raymond Edwin Mabus, Jr., declare as follows:

1. As set forth in my earlier declaration signed and dated September 13, 2017, I was part of a Working Group that comprehensively reviewed military policy with regard to transgender people serving across the service branches. It was based upon that review and the recommendations of that group that the Department of Defense announced in June 2016 that it would begin allowing transgender people to serve openly in the military.

2. As further set forth in that declaration, I am aware that in a series of announcements made on Twitter on July 26, 2017, and then again in a formal memorandum issued by the White House on August 25, 2017, President Trump announced the reversal of military policy stating that transgender individuals would no longer be able to serve in any capacity. The memorandum set March 23, 2018 as the date when military policy would revert to the pre-June 2016 policy whereby

1 transgender individuals are subject to discharge upon disclosure of their transgender status.

2 3. Based on my experience in military personnel and operations, the recently announced
3 policy change is presently causing significant harms to current service members who have disclosed
4 that they are transgender. Those harms are not speculative or future harms. They are current harms
5 that prevent transgender service members from serving on equal terms with non-transgender service
6 members and that impose substantial limitations on their opportunities within the military.

7 4. Consideration of the ways in which deployment decisions are made highlights the
8 current limitations and lost opportunities being experienced by transgender service members.
9 Consistent with naval operations, ships may deploy for up to 9 months at a time. Commanders
10 making decisions about how to staff naval operations must consider the length of time that a sailor
11 will be available for a deployment. If a sailor may not be available for the full length of a
12 deployment, command knows that they will have to expend significant resources to backfill staffing
13 needs in order to address the diminishment of resources. Rather than face those challenges, command
14 will predictably make assignments based on certainty about sailors' ability to serve the full length of
15 deployment.

16 5. Because of the announcement of the ban on transgender people being able to serve
17 after March 2018, command lacks the requisite certainty that transgender service members will be
18 able to complete the terms of their deployments where they extend beyond that date.

19 6. Similarly, command must regularly make personnel decisions that relate to
20 "permanent change of station" (PCS) moves. PCS moves are made to ensure maximum utilization of
21 personnel and to achieve military missions. PCS moves involve transporting service members and
22 their families to a different base and duty station, often across the country or the world. The
23 introduction of any uncertainty with regard to a service member's future service, or status, changes
24 command's consideration of PCS moves and military operations staffing. Based on my experience,
25 the announced ban on transgender people serving is impacting PCS moves.

26 7. As a result of the announced ban, transgender service members are losing

1 opportunities for assignments that they are capable of doing. These include lost opportunities for
2 deployment, training, and assignments. These lost opportunities are based not on individual
3 assessment of the service member’s merit but rather based on whether the person is transgender.
4 These lost opportunities, in addition to depriving transgender members of the military of the ability
5 to serve on equal footing with their peers, hinder transgender service members opportunities for
6 advancement and promotions as well.

7 8. The impact of this immediate harm reaches beyond the individual service member
8 and affects the institution of the military as a whole. The military is designed to be a meritocracy
9 where individuals receive opportunities and tackle assignments based on their ability to do the job.
10 The institution is weakened when people are denied the ability to serve not because they are
11 unqualified or because they cannot do the job but because of who they are.

12 9. The ban on transgender service members weakens the military in a second way as
13 well. With an all-volunteer force, which is the current structure of the military, a small segment of
14 the population is responsible for the security of the whole. In this circumstance, it becomes even
15 more important to have a diverse military in order to maintain a strong connection between those
16 who serve to protect society and the society that the force is protecting. Banning a segment of the
17 community from service weakens the bond of that connection between the military and society and
18 sends a message that certain segments of the community are not within the scope of the mission.
19 That message interferes with and diminishes military readiness and lethality.

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1 10. I know of no instance either prior to June 2016 or since when a transgender person
2 seeking to enlist was granted a waiver to the ban on service. In any case, it would be futile for a
3 transgender person to seek a waiver to join the military at this point in time since, according to the
4 announced policy, they would be subject to administrative discharge as soon as March 2018.

5 I declare under penalty of perjury that the foregoing is true and correct.

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7 DATED: October 23, 2017



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9 Raymond E. Mabus, Jr.

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