UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

DREW ADAMS, a minor, by and through his next friend and mother, ERICA ADAMS KASPER, Plaintiff, v. THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA, Defendant.	**Case No. 3:17-cv-00739-TJC-JBT**

PLAINTIFF'S SUPPLEMENTAL BRIEF IN RESPONSE TO THE COURT'S JANUARY 15, 2018 ORDER

Pursuant to this Court's January 15, 2018 Order, Plaintiff Drew Adams ("Drew"), a minor, by and through his next friend and mother, Erica Adams Kasper (collectively, "Plaintiff"), respectfully submits this supplemental brief for the Court's consideration.

Specifically, this Court directed the parties to provide their respective analysis of whether Plaintiff's claims are ripe for adjudication in light of the fact that Defendant's policy or custom barring transgender students from using the restrooms consistent with their gender identity "has not been the subject of public input and a final decision by the governing authority of the School District, the School Board of St. Johns County." Order (Doc. 159) at 1. ***The answer is unequivocally yes.***

Here, the trial record contains ample evidence that Defendant School Board of St. Johns County ("Defendant" or the "School Board") has ratified, endorsed, and vigorously defended

its policy or custom barring transgender students from using the restrooms consistent with their gender identity. Defendant does not contest this fact. To the contrary, Defendant's own witnesses have confirmed the prohibition on transgender students using the restrooms consistent with their gender identity is the policy and custom of the School Board. And because Plaintiff is presently and indisputably barred from using the boys' restrooms on account of his sex and transgender status under the threat of school discipline, there can be no question that there is an actual case or controversy ripe for this Court's consideration.

Plaintiff's civil and constitutional rights are not dependent upon "public input" or a formal vote by Defendant's members. Plaintiff should not be subjected to additional delay in favor of public debate and voting that may never occur. To do so would deprive Plaintiff of his civil and constitutional rights and eliminate any real opportunity for Plaintiff to obtain redress while he remains a student at Nease High School. Such a scenario would wrongly incentivize the School Board to avoid liability and permit it to hold student's rights captive by simply withholding a policy or custom from a vote or public hearing, while simultaneously implementing the unlawful and unconstitutional policy or custom without any redress for those who are aggrieved. When a public school student is subjected to discrimination by his school district, neither the manner in which a policy or custom was adopted, nor public sentiment should be allowed to perpetuate the discrimination.

Accordingly, the Court should find this case to be ripe for adjudication.

ARGUMENT

I. A SCHOOL POLICY NEED NOT BE FORMALLY ADOPTED BY A VOTE FOR A SCHOOL BOARD TO BE LIABLE.

A school board, such as Defendant, may be held liable for a policy or custom, regardless

of whether it was formally adopted by a school board vote, if such policy or custom purports to carry the force of law. Here, Defendant can and must be held liable both under 42 U.S.C. § 1983 and Title IX. And while the standards for liability under Section 1983 and Title IX "may not be wholly congruent," *Hill v. Cundiff*, 797 F.3d 948, 976–77 (11th Cir. 2015), Plaintiff has met his burden under both statutes.

Under Section 1983, a school board, such as Defendant, may be held liable for its deprivation of Plaintiff's "constitutional rights by either an express policy or a 'widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom and usage with the force of law.'" *Cuesta v. Sch. Bd. of Miami-Dade Cty., Fla.*, 285 F.3d 962, 966 (11th Cir. 2002) (quoting *Brown v. City of Fort Lauderdale*, 923 F.2d 1474, 1481 (11th Cir. 1991)); *see also* 42 U.S.C. § 1983; *Sauls v. Pierce Cty. Sch. Dist.*, 399 F.3d 1279, 1287 (11th Cir. 2005) ("Similarly, an act performed pursuant to a 'custom' that has not been formally approved by an appropriate decisionmaker may fairly subject a municipality to liability on the theory that the relevant practice is so widespread as to have the force of law." (quoting *Bd. of Cty. Comm'rs of Bryan Cty. v. Brown*, 520 U.S. 397, 403-04 (1997)). This includes a school board's "acquiescence in a longstanding practice or custom which constitutes the 'standard operating procedure' of the local governmental entity." *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 737 (1989). "Under Florida law, final policymaking authority for a school district is vested in the School Board." *K.M. v. Sch. Bd. of Lee Cty. Fla.*, 150 F. App'x 953, 957 (11th Cir. 2005).

Here, the testimony by Defendant's witnesses and Defendant's own actions, *see* Part II, *infra*, demonstrate that Defendant has officially ratified and endorsed the policy or custom

at issue. *See, e.g.*, Trial Tr. Vol. I 165:3-6 ("THE COURT: So is that what the district considers to be the policy? MR. HARMON: The district's long-standing policy is biological sex separating bathrooms based on biological sex."); *id.* at 269:21-22. Defendant is aware of the policy or custom at issue since *at least* 2015 when Plaintiff was advised of the policy and told that it prohibits his use of the boys' restrooms (which are consistent with his gender identity), under penalty of disciplinary action. Trial Tr. Vol. I 114:14-117:25; Trial Tr. Vol. III 17:14-18:1. Indeed, Defendant confirmed through multiple witnesses and counsel the policy or custom at issue is, in fact, an official, "long-standing" policy of the School Board and expected to be followed by its schools. Trial Tr. Vol. II 244:17-247:4; *id.* 74:1-4; Trial Tr. Vol. III 137:25-138:10. Yet, even after Plaintiff complained of this discriminatory policy or custom, rather than rectify the situation, Defendant hired private counsel to defend the merits of the policy or custom both before the U.S. Department of Education's Office for Civil Rights ("OCR") and before this Court. *See* Def.'s Trial Ex. 40; Trial Tr. Vol. II 76:21-77:2; Trial Tr. Vol. III 75:9-12. It is such "persistent failure to take disciplinary action against officers [that] give[s] rise to the inference that [the School Board] has ratified conduct, thereby establishing an unconstitutional custom that can subject [it] to liability." *Thomas ex rel. Thomas v. Roberts*, 261 F.3d 1160, 1175 (11th Cir. 2001) (cleaned up).[1] Moreover, by retaining private counsel to defend the policy or custom, the School Board specifically endorsed such policy. *See* Sch.

[1] "'Cleaned up' is a new parenthetical used to eliminate unnecessary explanation of non-substantive prior alterations." *United States v. Steward*, No. 16-3886, 2018 WL 541771, at *2 n. 3 (8th Cir. Jan. 25, 2018). "This parenthetical can be used when extraneous, residual, non-substantive information has been removed, in this case, internal quotation marks, brackets, additional quoting parentheticals and an ellipsis." *Id.*

Bd. of St. John Cty., *Sch. Bd. Rules Manual – Policy 2.12 Legal Services* (last revised July 8, 2004), *available at* https://perma.cc/5P9M-685P ("Special counsel may be retained to assist the General Counsel in any litigation or other matter when specifically approved by the School Board."). As Defendant's corporate witness designee testified, "The school board has supported maintaining the policy since this issue surfaced." Trial Tr. Vol. III 79:3-4. Thus, Defendant has officially ratified and endorsed the policy or custom of barring transgender students from the restrooms consistent with their gender identity.

But even if that were not the case, Defendant can be held liable because the policy or custom constitutes "a persistent and widespread practice," *Church v. City of Huntsville*, 30 F.3d 1332, 1345 (11th Cir. 1994) (quoting *Depew v. City of St. Marys*, 787 F.2d 1496, 1499 (11th Cir. 1986)), and such practice is "extensive enough to allow actual or constructive knowledge" of the policy or custom "to be attributed to" Defendant. *Daniel v. Hancock Cty. Sch. Dist.*, 626 F. App'x 825, 832 (11th Cir. 2015). "In other words, a longstanding and widespread practice is deemed authorized by the policymaking officials because they must have known about it but failed to stop it." *Brown*, 923 F.2d at 1481. Again, Defendants have known of this policy since *at least* 2015 when the Superintendent and executive cabinet approved the LGBTQ Best Practices document memorializing the "longstanding policy" and subsequently distributed the directive to the School Board as well as to all district staff for enforcement. Trial Tr. Vol. II 244:17-247:4. In the almost three years since that time, Defendants have done absolutely nothing to stop this unlawful and unconstitutional policy or custom. To the contrary, Defendant has vigorously defended the policy or custom. It is also undisputable that the policy or custom is a persistent and widespread practice through the St.

Johns County School District. *See* Part II, *infra*. Put simply, the policy or custom of barring transgender students from using the restrooms consistent with their gender identity is in every way the "standard operating procedure" of Defendant and the St. Johns County School District.

Further, under Title IX, Defendant may be held liable based on a showing of "deliberate indifference of an official who at a minimum has authority to address the alleged discrimination and to institute corrective measures on the organization's behalf and who has actual knowledge of discrimination in the organization's programs and fails adequately to respond." *Liese v. Indian River Cty. Hosp. Dist.*, 701 F.3d 334, 349 (11th Cir. 2012) (cleaned up). There is no question that officials at the highest levels of the St. Johns County School District were and are aware of the discrimination that Plaintiff has been subjected to on account of the policy or custom, and that these officials have failed to redress this discrimination by rescinding, revising, or otherwise ceasing to enforce the policy or custom barring Plaintiff from the boys' restroom. For example, Plaintiff complained to and met with school and district level officials, including Assistant Superintendents, before filing a Title IX complaint with OCR when the district refused to take action. Trial Tr. Vol. I 254:7-261:11; Trial Tr. Vol. II 37:21-39:1. Even then Defendant could have remediated the situation by rescinding or ceasing to enforce the discriminatory policy, but Defendant chose instead to double down and defend it. Given the evidence here regarding Defendant's enforcement and knowledge of this discriminatory policy or custom, Plaintiff has more than met his burden of showing that an official with authority to address the discrimination had actual knowledge of the discrimination and failed to address it.

Finally, it should be noted that neither of the policies barring transgender students from using the restrooms consistent with their gender identity enjoined by the courts in *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, No. 16-CV-943-PP, 2016 WL 5239829 (E.D. Wis. Sept. 22, 2016), *aff'd*, 858 F.3d 1034 (7th Cir. 2017), and *Bd. of Educ. of the Highland Local Sch. Dist. v. United States Dep't of Educ.*, 208 F. Supp. 3d 850 (S.D. Ohio 2016), were the subject of public hearings or a vote by the respective school board in each of those school districts. Nonetheless, each of those courts considered those challenges presenting equal protection and Title IX claims—virtually identical to this case—to be ripe for adjudication.

From any angle, the evidence shows Defendant is liable for its policy or custom barring transgender students from using the restrooms consistent with their gender identity.

II. DEFENDANT'S ACTIONS AND THE TESTIMONY OF ITS WITNESSES DEMONSTRATE THAT DEFENDANT HAS RATIFIED AND ENDORSED THE POLICY OR CUSTOM AT ISSUE.

As denoted above, Defendant's actions and the testimony of its witnesses demonstrates that Defendant School Board has ratified and endorsed the policy or custom of barring transgender students from the restrooms consistent with their gender identity.

First, Defendant's corporate witness designee testified that the policy or custom of barring transgender students from the restrooms consistent with their gender identity represents the position of the school district and the school board. *See* Trial Tr. Vol. III 47:21-48:1 (THE COURT: "How do I know that this policy that you're defending in this suit represents the position of the school district or the school board." MR. UPCHURCH: "My personal and professional assurance, Your Honor.").

Second, all of Defendant's witnesses testified that the policy or custom at issue here represented the position of the School District as far back as they could remember. In other words, all of Defendant's witnesses testified that the policy or custom at issue here was a "longstanding practice or custom which constitutes the 'standard operating procedure' of the [St. Johns County School District]." *Jett*, 491 U.S. at 737. For one, Sallyanne Smith testified that in her 11 years as director of student services the policy or custom of the School District was that transgender students could not use the restrooms consistent with their gender identity. *See* Trial Tr. Vol. II 149:8-12 ("Q. So you were the director of student services for 11 years. What was the school district's policy with respect to bathroom use in the school district? A. Well, it was basically that the biological sex boys use the boys' room and biological sex girls use the girls' room."); *id.* at 150:1-3 ("Q. Were biological boys allowed to go into the biological girls bathroom? A. No.").

Similarly, Cathy Mittelstadt, the deputy superintendent for operations at St. Johns School District and a corporate witness designee, testified that the policy or custom at issue here is "the way we've been doing our business." Trial Tr. Vol. III 11:3-4. Indeed, it is "the way [the] district has carried out [its] business over the course of time." *Id.* at 11:16-18. And Frank Upchurch, the school board attorney and a corporate witness designee, testified that the policy or custom has "been part of the school system's DNA as long as anybody can remember." Trial Tr. Vol. III 45:23-24; *see also id.* at 67:18-20 ("Based on those facts and the history in St. Johns County, there is an expectation that biological boys will not be in the girls' room and vice versa."). Finally, Lisa Kunze, the principal at Nease High School, testified she had no discretion in enforcing the policy or custom barring transgender students from the

restrooms consistent with their identity "[b]ecause it's the district policy, and it's [her] job to enforce the district policy." *Id.* at 138:6-7; *see also id.* at 136:24-137:2 ("Q. And you would also agree that none of the transgender students can use the bathroom that corresponds with their gender identity? A. That is correct.").

Third, Defendant has vigorously defended the merits of the policy or custom not only before the Court, after its formal and specific approval, but also before OCR. Indeed, as far back as May 2016, Defendant represented to OCR that "the District provides separate restroom facilities on the basis of sex, as well as gender-neutral facilities. The girls' and boys' restrooms are designated for biological females and biological males, respectively." Def.'s Trial Ex. 40. And Defendant represented to OCR that such statement represented the "School District's legal position." *Id.*; *see also* Trial Tr. Vol. III 74:21-24 ("Q. Okay. Was the school board of St. Johns County aware that this was the position that was taken with respect to that investigation? A. Yes."); *id.* at 73:11-14. Thus, the School Board has taken the stance *in writing* that the policy or custom at issue here represents the official position of the School District.

Fourth, Defendant has ratified and endorsed the policy or custom through its obligation to *formally approve* the hiring of outside private counsel to defend the merits of the policy or custom at issue. Indeed, additional private counsel "may be retained" for litigation only "when specifically approved by the School Board." *School Board Rules Manual – Policy 2.12 Legal Services*, *supra*; *see also* Trial Tr. Vol. II 76:21-77:2 ("THE COURT: And by what -- so did the school board of St. Johns County authorize the litigation to defend the policy? MR. HARMON: I wouldn't be standing here if we weren't authorized to defend the policy.").

Thus, through its actions and the testimony of its own witnesses, Defendant has ratified and endorsed the policy or custom of barring transgender students from the restrooms consistent with their gender identity at issue here.

III. THE PRESENT CASE IS RIPE FOR ADJUDICATION.

The present case is ripe for adjudication based on the facts adduced at trial and its current procedural stance. "Born from both Article III and prudential concerns, ripeness is a justiciability doctrine designed to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies." *Temple B'Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d 1349, 1356 (11th Cir. 2013) (cleaned up). "In deciding whether a claim is ripe for adjudication or review, we look primarily at two considerations: 1) the fitness of the issues for judicial decision, and 2) the hardship to the parties of withholding court consideration." *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1224 (11th Cir. 2004). Put in other words, the Court need only ask: "Do the conflicting parties present a real, substantial controversy which is definite and concrete rather than hypothetical or abstract? If so, is the factual record nonetheless too undeveloped to produce a well-reasoned constitutional decision?" *Hallandale Prof'l Fire Fighters Local 2238 v. City of Hallandale*, 922 F.2d 756, 760 (11th Cir. 1991). Here, Plaintiff presents a clear and substantial controversy that is definite and concrete, and the factual record is painstakingly developed to produce a well-reasoned decision.

"To establish that a facial challenge to a governmental act presents a real and substantial controversy, a plaintiff must show he has sustained, or is in immediate danger of sustaining, a direct injury as the result of that act." *Hallandale*, 922 F.2d at 760. Here, this case presents a

real and substantial controversy. Plaintiff has sustained and continues to sustain direct injury as a result of Defendant's policy or custom. *See, e.g.*, Trial Tr. Vol. I 116:14 (Plaintiff's testimony that being barred from the boys' restroom felt "humiliating" and "like a slap in the face."); *id.* 117:4-7 (Plaintiff's testimony that being prohibited from the boys' restroom causes him anxiety and depression, including when he has to walk past the boys' restroom to access the gender neutral restroom.); *id.* 204:10-12 (it feels "like a walk of shame," because "I know that the school sees me as less of a person, less of a boy, certainly, than my peers"); Trial Tr. Vol. II 92:13-22 (Scott Adams's testimony that Plaintiff was "devastated" after the school barred him from the boys' restroom, and he returned to the depression and anxiety he had experienced before he transitioned).

Moreover, the trial record in this case includes the testimony of 11 witnesses and dozens of exhibits. Plaintiff presented testimony of: (1) Plaintiff; (2) Plaintiff's mother; (2) Plaintiff's father; (3) Dr. Adkins, a noted endocrinologist, expert in gender identity matters, and Plaintiff's treating physician; (4) Dr. Ehrensaft, a renowned developmental psychologist and expert on transgender youth; (5) Dr. Aberli, a school principal in Kentucky familiar with issues surrounding the use of restrooms by transgender students; (6) Ms. Kefford, a school principal in Broward County familiar with the issues faced by transgender students and their use of restrooms; and (7) Ms. Valdrun-Pope, a school district administrator in Broward County familiar with the promulgation of policies regarding transgender students and their application. Defendant presented the testimony of (and Plaintiff cross-examined): (1) Ms. Smith; (2) Ms. Mittelstadt; (3) Mr. Upchurch; and (4) Ms. Kunze.

The factual record demonstrates in detail how Defendant's policy or custom barring transgender students from using the restrooms consistent with their gender identity has been enforced against Plaintiff; how it has harmed Plaintiff and other transgender students; and how it is unjustified because it does not protect anyone's privacy or safety but rather endangers the safety and privacy of students, such as Plaintiff. This well-developed record evinces a clear case and controversy that is definite and concrete, and merits this Court's adjudication.

Finally, the hardship visited upon Plaintiff by a lack of adjudication in his case now would be enormous. To be sure, because this case is fit for resolution, Plaintiff need not show hardship. *See Harrell v. Florida Bar*, 608 F.3d 1241, 1259 (11th Cir. 2010); *see also AT&T Corp. v. FCC*, 349 F.3d 692, 700 (D.C. Cir. 2003) ("[W]here there are no institutional interests favoring postponement of review, a petitioner need not satisfy the hardship prong."). Nonetheless, any further delay in adjudicating this case would unquestionably result in unnecessary and serious hardships to Plaintiff. "The hardship prong asks about the costs to the complaining party of delaying review until conditions for deciding the controversy are ideal." *Harrell*, 608 F.3d at 1258. Here, any delay would cause Plaintiff hardship in several ways.

First, "[h]ardship can sometimes be established if a plaintiff demonstrates that he would have to choose between violating an allegedly unconstitutional statute or regulation and risking criminal or severe civil sanctions." *Elend v. Basham*, 471 F.3d 1199, 1211 (11th Cir. 2006). In this case, it is undeniable that Plaintiff must either choose to expose himself to school discipline or continue to abide with Defendant's unlawful and unconstitutional policy or custom. *See* Order at 1; *see also* Trial Tr. Vol. III 17:14-18:1.

Second, further delay in this matter could result in the complete deprivation to Plaintiff of his civil and constitutional rights during his entire tenure at Nease High School. Indeed, the School Board could simply avoid review of its custom or policy by never bringing it to a public hearing or vote. Plaintiff is already more than half way through his junior year at Nease High School. Any further delay could take this case into, or beyond, Plaintiff's final year in high school. No amount of money can compensate Plaintiff for such deprivation.

Put simply, Defendant's unlawful and discriminatory interference with Plaintiff's education constitutes an irreparable harm that should not be unjustly prolonged. *See Virginia Coll., LLC v. SSF Savannah Props., LLC*, 93 F. Supp. 3d 1370, 1379 (S.D. Ga. 2015); *Ray v. Sch. Dist. of DeSoto Cty.*, 666 F. Supp. 1524, 1535 (M.D. Fla. 1987). As other courts have recognized, "plaintiff's spending his last school year trying to avoid using the restroom, living in fear of being disciplined, feeling singled out and stigmatized" cannot be "rectified by a monetary judgment, or even an award of injunctive relief, after [another] trial that could take place months or years from now." *Whitaker*, 2016 WL 5239829, at *64.

The parties in this case have spent considerable time and resources in developing the current substantial record. These efforts involved multiple depositions, a three-day trial, the testimony of 11 witnesses, retention of several experts, and other investigation and discovery matters. What is more, Defendant has never questioned the ripeness of this case, nor disavowed the policy or custom as not one adopted by the School Board. To the contrary, Defendant has ratified, endorsed, and vigorously defended the policy or custom at every turn, and its own witnesses have testified to that effect. Thus, raising of "ripeness" *at this juncture* would result in substantial hardship to Plaintiff.

Put simply, this case is ripe for adjudication. Here, not only is there a real and substantial case and controversy based on a well-developed trial record, but the significant hardships imposed upon Plaintiff—indeed, both parties—by the failure to adjudicate this case now, counsels in favor of a finding that this case is ripe for adjudication.

IV. COURTS NEED NOT WAIT FOR LEGISLATIVE ACTION OR PUBLIC INPUT TO DECIDE THE CASES OR CONTROVERSIES BEFORE THEM.

"[I]ndividuals need not await legislative action before asserting a fundamental right." *Obergefell v. Hodges*, 135 S. Ct. 2584, 2605 (2015). As the Supreme Court recently stated,

> ***The Nation's courts are open to injured individuals*** who come to them to vindicate their own direct, personal stake in our basic charter. An individual can invoke a right to constitutional protection when he or she is harmed, even if the broader public disagrees and ***even if the legislature refuses to act***.

Id. (emphasis added). It does not matter how "controversial" a case may be. *Pierson v. Ray*, 386 U.S. 547, 554 (1967). As such, the Court should not delay to adjudicate this case based on whether the policy or custom at issue has "been the subject of public input" or a vote by Defendant School Board.

While Plaintiff wishes Defendant would have addressed this grievous situation in the preceding two years, when he met with its officials and filed a complaint with OCR, the fact that this matter could have been "settled elsewhere" should not delay adjudication of this case *now*. *Kitchen v. Herbert*, 755 F.3d 1193, 1228 (10th Cir. 2014). "The protection and exercise of fundamental rights are not matters for opinion polls or the ballot box." *Id.*; *see also Lucas v. Forty–Fourth Gen. Assembly of Colo.*, 377 U.S. 713, 736-37 (1964) ("A citizen's constitutional rights can hardly be infringed simply because a majority of the people choose that it be."). "[F]undamental rights may not be submitted to vote; they depend on the outcome

of no elections." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943). Put simply, the very purpose of our judiciary is to enable us as a "society to 'withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.'" *Republican Party of Minnesota v. White*, 536 U.S. 765, 804 (2002) (quoting *Barnette*, 319 U.S. at 638). All Plaintiff asks is for those legal principles to be applied now.

For too long, Plaintiff has been deprived of his rights. Drew Adams is legally entitled to have his case adjudicated and have the policy or custom voided so that he does not continue to suffer for the remainder of his time at Nease High School. *See Watson v. City of Memphis*, 373 U.S. 526, 537 (1963) ("[C]ommendable good will between the races, [rather than] supporting the need for further delay, can best be preserved and extended by the observance and protection, not the denial, of the basic constitutional rights here asserted. The best guarantee of civil peace is adherence to, and respect for, the law.").

CONCLUSION

WHEREFORE, based on the foregoing, Plaintiff respectfully requests that the Court hold that this case is ripe for adjudication and that Defendant's policy or custom barring transgender students from using the restrooms consistent with their gender identity violates Plaintiff's rights under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*, and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV, § 1.

Dated this 2nd day of February, 2018.

Respectfully submitted,

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