

The Honorable Marsha J. Pechman

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

RYAN KARNOSKI, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

CASE NO. 2:17-cv-01297 (MJP)

**DECLARATION OF RYAN B. PARKER**

1. I am a Senior Trial Counsel in the Federal Programs Branch, Civil Division, United States Department of Justice, and the primary counsel of record for defendants in the above-captioned case. Except to the extent otherwise indicated, I make the statements in this declaration based on personal knowledge. I submit this Declaration in support of Defendants’ Rule 56(d) Response to Plaintiffs’ and Intervenor’s Motions for Summary Judgment.
2. Defendants had not had the opportunity to take or complete discovery before Plaintiffs and Intervenor filed their motions for summary judgment on January 25, 2018. Dkt. Nos. 131, 150. Pursuant to the Court’s January 5, 2018 scheduling order, the parties were not required to exchange initial disclosures until February 9, 2018, and will not submit a combined Joint Status Report and Discovery Plan until February 16, 2018. Dkt. No. 124. Moreover, depositions currently scheduled for several of the Plaintiffs’ declarants in the related case of *Doe v. Trump*, No. 1:17-cv-01597-CKK (D.D.C.), have not been completed. The Joint and Supplemental Status Reports filed in *Doe* on December 15 and December 22, 2017

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2 respectively—more than a month before Plaintiffs and Intervenors filed their summary  
3 judgment motions—indicate that these depositions are scheduled for March 2018.

- 4 3. In support of their motion for summary judgment, Plaintiffs submitted twenty declarations  
5 (totaling over 160 pages), including declarations from the nine individual Plaintiffs, the three  
6 organizational Plaintiffs, four former Service and Under Secretaries and a former Chairman  
7 of the Joint Chiefs of Staff, two purported expert witnesses, and an attorney declaration  
8 seeking to authenticate a host of exhibits. *See* Dkt. Nos. 130–149
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10 4. The nine declarations submitted by the individual Plaintiffs and the three declarations  
11 submitted by the organizational Plaintiffs contain testimony related to their standing to sue.  
12 Plaintiffs use these declarations in their motion for summary judgment in an attempt to  
13 establish that they have suffered harm—a basic requirement for establishing jurisdiction.  
14 For the Plaintiffs currently serving in the military, Defendants have not had an opportunity  
15 to question them regarding any alleged harms they have faced (including harms, if any, that  
16 are not included in their declarations), their medical histories, and their ability to be  
17 deployed. For the Plaintiffs not currently serving in the military, Defendants have not had  
18 an opportunity to determine, among other things, whether those Plaintiffs can, in fact, meet  
19 the eligibility requirements for military service unrelated to their transgender status. For  
20 example, Plaintiff Ryan Karnoski states in conclusory fashion in his declaration that he is  
21 “ready and able to pursue a military career,” Dkt. No. 130 at ¶ 16, and that he is “fit to serve  
22 in the military.” *Id.* ¶ 20. Plaintiff D.L. states that “when [he] meet[s] the current  
23 requirements to enlist, [he] intend[s] to do so.” Dkt. No. 132 at ¶ 16. Similarly, Plaintiff  
24 Conner Callahan states that he is “ready and able to pursue a military career.” Dkt. No. 137  
25 at ¶ 11. Given that only Plaintiffs have access to the bases, if any, for their own statements,  
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Defendants intend to take depositions and possibly serve written discovery to fully test those assertions.

5. In addition, Plaintiffs have submitted declarations from Sarah Warelow, legal director of the Human Rights Campaign, Dkt. No. 139; Danni Askini, Executive Director for Gender Justice League, Dkt. No. 140; and Ashley Broadway, President of the American Military Partner Association, Dkt. No. 141, in support of the organizational Plaintiffs’ claims to standing to participate as plaintiffs in this case. Defendants intend to fully test the assertions in these declarations through depositions and possibly written discovery.

6. Plaintiffs also have submitted non-party declarations, including declarations from four former Service and Under Secretaries and a former Chairman of the Joint Chiefs of Staff. These individuals have offered testimony concerning military readiness, unit cohesion, morale, and cost. *See, e.g.*, Dkt. No. 142 at ¶¶ 31-32, 36 (stating that banning transgender individuals from the military would “degrade military readiness and capabilities,” “impose significant costs that far outweigh the minimal cost of permitting them to serve,” and have “a deleterious effect on readiness, force morale, and trust in the chain of command in the Armed Services”); 144 at ¶¶ 45-47 (stating that banning transgender service members “will produce vacancies in the Services, creating an immediate negative impact on readiness,” “negatively impacts unit cohesion, a fundamental component of readiness,” and “erodes trust in military leadership”); 148 at ¶ 8 (stating that banning transgender individuals from the military “would harm military readiness as well as morale”). Defendants have not had an opportunity to complete discovery to test the basis and reliability of these opinions concerning what Plaintiffs believe to be the key facts and issues in this case. In particular, Defendants intend to depose these individuals to discover what facts they considered and

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2 failed to consider in coming to their conclusions. As noted, the depositions of several of  
3 these witnesses are currently scheduled in *Doe v. Trump*.

- 4 7. Plaintiffs also have submitted declarations from two purported expert witnesses, George  
5 Brown and Mark Eitelberg. *See* Dkt. No. 143, 147. Dr. Brown states that he is “offer[ing]  
6 his expert opinion on (1) the medical condition known as gender dysphoria; (2) the  
7 prevailing treatment protocols for gender dysphoria; (3) the United States military’s pre-2016  
8 ban on the enlistment and retention of men and women who are transgender; (4) the  
9 subsequent lifting of that ban; and (5) the unfounded medical justifications for banning  
10 individuals who are transgender from serving in the United States military.” Dkt. No. 143 at  
11 ¶ 2. Dr. Brown opines that “[t]here is no evidence that being transgender alone affects  
12 military performance or readiness. There is no medical or psychiatric justification for the  
13 categorical exclusion of transgender individuals from the Armed Forces.” *Id.* ¶ 90. Dr.  
14 Eitelberg opines that “the newly announced policy is significantly harming service members  
15 who have disclosed they are transgender” because “[t]he new policy prevents transgender  
16 service members from serving equally with their peers; it imposes substantial limitations on  
17 their opportunities within the military; and it negatively impacts their day-to-day  
18 relationships with co-workers and other service members.” Dkt. No. 147 at ¶ 6; *see also id.* ¶¶  
19 7-17 (describing other alleged harms incurred by transgender service members). Defendants  
20 should be afforded the opportunity to take discovery to probe the qualifications of these  
21 proffered expert witnesses to provide their opinions, as well the bases and reliability of those  
22 opinions. *See* Fed. R. Evid. 702.  
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27 8. In terms of a general plan for discovery, Defendants intend to seek discovery as follows.  
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9. First, Defendants anticipate serving written discovery on the topics identified above in  
February or March.

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10. Second, Defendants also anticipate seeking and completing scheduled depositions. As noted, many depositions already have been scheduled for February and March in the related case *Doe v. Trump*, and counsel for Plaintiffs have been invited to those depositions. On December 15 and December 22, 2017—more than a month before Plaintiffs filed their summary judgment motion—Defendants noted in a Joint Status Report and Supplement in the related case *Doe v. Trump* that they would be taking the depositions of Brad Carson on March 19, 2018; Deborah Lee James on March 21, 2018; Raymond Mabus, Jr. on March 26, 2018; Eric K. Fanning on March 29, 2018; George Richard Brown on March 5, 2018; and Mark Eitelberg on March 27, 2018. *See Doe v. Trump*, No. 1:17-cv-01597-CKK (D.D.C.); Dkt. Nos. 76, 77. These six individuals have submitted declarations in support of Plaintiffs’ summary judgment motion in this case, and appear to be offering the same testimony in all four related cases. *See* Dkt. Nos. 142–47. For the sake of efficiency, Defendants’ intend to depose these individuals once for all four related cases. In addition, Defendants intend to schedule the depositions of the nine individual Plaintiffs; the three organizational Plaintiffs; and former chairman of the Joint Chiefs of Staff, Michael Mullen.

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

Dated: February 12, 2018

/s/ Ryan B. Parker  
RYAN B. PARKER