

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W., a minor child, by his next friend,)	
Wyatt Squires,)	
)	
Plaintiff,)	
)	
v)	No. 3:18-cv-00037-WTL-MPB
)	
EVANSVILLE VANDERBURCH SCHOOL)	
CORPORATION,)	
)	
Defendant.)	

Notice of Filing of Evidentiary Material

Plaintiff, by counsel, files the following evidentiary material.

Exhibit 1 – Declaration of J.A.W.

Exhibit 2 – Declaration of Wyatt Squires.

WHEREFORE, plaintiff files the above mentioned evidentiary material.

s/ Kenneth J. Falk

Kenneth J. Falk
No. 6777-49

s/ Gavin M. Rose

Gavin M. Rose
No. 26565-53

s/ Jan P. Mensz

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Attorneys for Plaintiff

Certificate of Service

I hereby certify that on this 10th day of April, 2018, a copy of the foregoing was filed electronically with the Clerk of this Court. A copy will be served by the Court's system on:

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s/ Kenneth J. Falk

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W., a minor child, by his next)
friend, Wyatt Squires,)
)
Plaintiff,)
)
v.)
)
EVANSVILLE VANDERBURGH)
SCHOOL CORPORATION,)
)
Defendant.)

No. 3:18-cv-00037-RLY-MPB

Declaration of J.A.W.

J.A.W., being duly sworn upon his oath, says that:

1. I am the plaintiff in this action.
2. I am a minor person and I reside in Evansville, Indiana.
3. I am currently 16.
4. I am a student in the Evansville Vanderburgh School Corporation ("EVSC").
5. I am a junior and I attend a program that is in two EVSC high schools.
6. The gender that was assigned to me at birth, and noted on my birth certificate, is female.
7. However, I have long identified myself as male and I have presented myself to the world as male.
8. By the time I was 12 I informed my family that I identified myself as male.

9. By that time I had begun to make myself masculine in appearance, which included wearing male clothing and cutting my hair in a masculine manner. This continues to this day.

10. At that time I also asked my family, teachers, and friends to refer to me by a male first name and to use male pronouns when referring to me. This also continues to this day.

11. When I was a freshman, attending one of EVSC's high schools, I began to use the male restrooms in the school.

12. But, I was told by a school administrator that I was not allowed to use male restrooms.

13. Instead, I was instructed use either the female restrooms in the school or I was told I could use the bathroom in the school nurse's office.

14. I did not find the school nurse's office to be a viable option as it was very far from my classes and it was frequently locked as the nurse was often not in the office.

15. I did not, and do not, wish to use female restrooms as I do not identify as female.

16. Even as a freshman it made me extremely uncomfortable to use female restrooms and it was emotionally and psychologically difficult as it prevented me from presenting as a male.

17. When I was a freshman I was required to take gym. I, along with another transgender student, was required to change in an upstairs portion of the girls' locker room, away from other students.

18. When I was a sophomore, I asked an administrator at the high school if I could use the male restrooms. I told the administrator that I believed that it was the position of the United States Department of Education at that time that transgender student could use the restrooms of their identified gender. But, I was told I could not use the male restrooms.

19. When I was a sophomore I was required to complete my gym requirement. I was again required to change in an upstairs portion of the female locker room with another transgender student.

20. I am under a physician's care and I have been diagnosed with gender dysphoria.

21. For more than seven months I have been prescribed, and I have been taking, male hormones.

22. The hormone therapy has accelerated the development of my male characteristics.

23. I do not appear to be female in appearance.

24. Using female restrooms at this point would completely undermine my transition and would be wrong as I am not female.

25. Use of the restroom in the nurse's office, which was previously offered in one of the two high schools that I attend still is not a viable option. As noted, not only is it distant and not readily available, use of it would emphasize to both me and to the school community that I am "different" than everyone else and would undermine my transition.

26. Because I am not allowed to use the male restrooms and I am uncomfortable in the female restrooms my solution has been to attempt to cease using any restroom while I am in the school buildings. To do this I severely restrict my fluid intake in an attempt to stop from having to go to the bathroom while I am at school.

27. This has caused me pain and discomfort.

28. Sometimes I have to use the restroom while at school. On the few occasions when I could not wait and just had to use the restroom I use the female restrooms as I do not want to risk being disciplined by EVSC for using the male restrooms. Using the female restroom makes me feel extremely uncomfortable. This has caused me depression and other emotional difficulties.

29. I am aware that my attorney contacted the attorney for EVSC in January of 2018 and requested that I be able to use the male restrooms on EVSC property.

30. I have reviewed the letter that the attorney for EVSC sent back to my attorney.

31. In the letter, dated February 3, 2018, the attorney indicated that EVSC would continue to make a private bathroom available to me, which I assume is the nurse's restroom, but that EVSC was unwilling to allow me to use the male restrooms.

32. The letter also indicated that I "cannot use male restrooms without risk of punishment." (emphasis in original).

33. I am aware that the male restrooms in the high schools I attend have urinals and individual stalls with toilets in them.

34. EVSC is forcing me to deny who I am and is making me feel different. This is causing me stress, depression, and psychological harm.

35. I live with my mother who sole has legal custody of me.

36. I have spoken with my mother about my efforts to use the male restrooms within the schools I attend and she supports me in my efforts and in this case. However, she is involved in a dissolution of marriage case with her current husband and does not want to be involved in any other court proceedings at this point. She did indicate that when her current divorce case is over she will be willing to serve as next friend in this case.

37. I have no adult relatives who can serve as a next friend in this matter.

38. I have known Wyatt Squires for a year or more. I have frequently stayed overnight at the home he shares with his fiancé and I see him at least weekly.

39. Mr. Squires hosts a group each week for transgender persons and I attend regularly.

40. I view Mr. Squires as a mentor and I turn to him regularly for assistance and advice.

41. My mother specifically noted that she agreed that in her absence Mr. Squires should serve as my next friend in this litigation.

Verification

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

Executed on: 3/3/18
Date


J.A.W.

Prepared by:

Kenneth J. Falk
No. 6777-49
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2457 E. Washington St., Suite Z
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8. I understand that his mother is not willing at this point, due to her personal situation, to be his next friend although she may wish to be his next friend in the future.

9. I was more than willing to agree to be his next friend in this case and I am more than willing to continue to serve in that capacity.

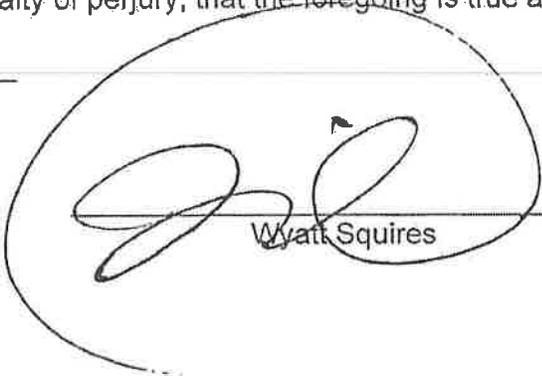
10. J.A.W. and I have a close relationship and I certainly support his efforts to use the male restrooms. I believe I can, and will, proceed with his best interests in mind in proceeding with this matter.

11. I believe that in order to aid and assist J.A.W. it is extremely important that he be allowed to use the male restroom as he identifies as a male person and the policy of the Evansville Vanderburgh School Corporation, which this lawsuit is challenging, is injuring J.A.W.

Verification

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

Executed on: 3/31/18
Date



Wyatt Squires

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