

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W., a minor child,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 3:18-cv-00037-WTL-MPB
)	
EVANSVILLE VANDERBURGH)	
SCHOOL CORPORATION,)	
)	
Defendant.)	

Motion for Partial Summary Judgment

Plaintiff, J.A.W., by his counsel says that:

1. There are no contested issues of material fact in this case concerning the liability of defendant for violating plaintiff's rights under both Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1681(a), and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
2. The law is with the plaintiff and against the defendant.
3. In support of this motion he relies upon the following evidentiary materials as more fully set out in his memorandum of law filed on this date.
 - a. His Second Supplemental Declaration, attached to this motion as Exhibit 1.¹
 - b. His previously filed Declaration, Dkt. 17-1
 - c. His deposition, with certain sealed and unsealed exhibits, Dkt. 50-1.

¹ The attached declaration has been electronically transmitted to counsel. The original is being mailed to counsel and should be received in the immediate future.

- d. The deposition of David Smith, with certain sealed and unsealed exhibits, Dkt. 50-2.
 - e. Sealed exhibits from the depositions of J.A.W. and David Smith, Dkt. 51-1, 51-2, 51-3, 51-4.
 - f. The supplemental declaration of J.A.W., Dkt. 50-3.
 - g. The declaration of Tammy Work, Dkt. 50-4.
 - h. The declaration of Randi Ettner, Ph.D., Dkt. 50-5.
 - i. The declaration of James D. Fortenberry, M.D., M.S., Dkt. 50-6.
 - j. The declaration of Janine M. Fogel, M.D., C.C.F.P., A.B.F.M., Dkt. 50-7.
 - k. The declaration of Judy Chiasson, Ph.D., Dkt. 50-8.
 - l. The declaration of Zachary J. Mulholland, Dkt. 50-9.
 - m. The declaration of Alecander Dean, Dkt. 50-10.
 - n. Certain public documents concerning other jurisdictions' requirements and recommendations concerning access of transgender students to bathrooms consistent with their gender identities, Dkt. 54-1.
 - o. Certain public documents from Indiana school corporations, Dkt. 54-2.
 - p. The complaint in this cause, Dkt. 1, as answered by defendant, Dkt. 34.
 - q. The Transcript of the preliminary injunction hearing in this case, Dkt. 61.
4. In further support of this motion he separately submits his memorandum of law, which is incorporated by reference to the extent necessary.

WHEREFORE, J.A.W. requests that this Court:

- a. Enter its order of partial summary judgment finding defendant liable for violating both Title IX and equal protection.
- b. Set this matter for trial as to plaintiff's damages.
- c. Award all other proper relief.

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W., a minor child,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 3:18-cv-00037-RLY-MPB
)	
EVANSVILLE VANDERBURGH)	
SCHOOL CORPORATION,)	
)	
Defendant.)	

Second Supplemental Declaration of J.A.W.

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

1. I am the plaintiff in this case.
2. This declaration is a supplement to the prior declarations that I previously submitted in this case.
3. I am continuing to take male hormones.
4. I completed my high school academic career within the Evansville Vanderburgh School Corporation ("EVSC") at the conclusion of the fall semester of the 2018-2019 school year, enabling me to graduate a semester early. I am therefore no longer enrolled in classes within EVSC.
5. I plan to attend college in the fall.
6. Although I no longer will be taking classes within EVSC, I have been informed by administrators within my high school that I will be able to march with my class

when diplomas are awarded to most seniors in the Spring of 2019, even though I will have already been awarded my diploma. I plan to do this.

7. Participating in graduation will necessitate me being present on EVSC property for graduation rehearsal and for the graduation itself. I wish to be able to continue to use the male restrooms when I return to EVSC property.

8. Following this Court's preliminary injunction determination I was allowed to use the male restrooms within EVSC and I used them for the entirety of the fall semester in 2018.

9. I used the male restrooms without any incidents or problems.

10. Being allowed to use the male restrooms as all other male students within EVSC has contributed to my continuing social transition and removed an area of my life—being denied the use of the male restrooms— that was causing me an extreme amount of anxiety and concern.

Verification

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

Executed on: 1/9/19
Date

J. A. W.
J.A.W.

Prepared by:

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