

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Robert L. Vazzo, LMFT, et al.,

Case No. 8:17-cv-02896-WFJ-AAS

Plaintiffs,

v.

City of Tampa, Florida,

Defendant.

**CITY OF TAMPA’S STATEMENT OF DISPUTED FACTS
IN OPPOSITION TO PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

Defendant, the City of Tampa (the “City”), by and through counsel and under Federal Rule of Civil Procedure 56, files this Statement of Disputed Facts (the “Statement”) in opposition to Plaintiffs’ Motion for Summary Judgment and Motion to Exclude Certain Opinions of Defendant’s Expert and Incorporated Memorandum of Law (Doc. 194) and Plaintiffs’ Statement of Undisputed Facts in Support of Motion for Summary Judgment (Doc. 193) as follows:

A. City of Tampa Ordinance 2017-47

1. Admitted.

B. Plaintiff Robert L. Vazzo, LMFT

2. Admitted.

3. Admitted.

4. Paragraph 4 asserts and incorporates impermissible conclusory argument, and therefore, denied.

5. Denied as to “all of Vazzo’s clients who have engaged in SOCE counseling for at least one year have experienced some degree of positive change.” (Doc. 24-1, p. 28, “Given the limited amount of methodologically sound research, claims that SOCE is effective

is are not supported.”) Denied as to Plaintiff “does not coerce any client to engage in SOCE counseling and would never engage in any counseling unless the client desires such counseling and voluntarily consents to it” because Florida law generally does not permit minors to consent to their own medical treatment. (Doc. 24-2, p. 445 “Children and adolescents are often unable to anticipate the future consequences of a course of action and are emotionally and financially dependent on adults. Further, they are in the midst of developmental processes in which the ultimate outcome is unknown. Efforts to alter that developmental path may have unanticipated consequences.”).

6. Denied to the extent it asserts that a fifteen-year old minor client is seeking SOCE counseling from Vazzo because Florida law generally does not permit minors to consent to their own medical treatment. (Doc. 24-2, p. 445.)

7. Paragraph 7 asserts and incorporates FAVC 67–71, 88, 90, 93–97, 126, 130, 131, 133, 134–143, 151–153, 155–159, 164. These are each impermissible conclusory arguments and therefore, denied.

C. Tampa Interprets the Ordinance to Prohibit Speech.¹

8. Denied as the Ordinance speaks for itself. (Doc. 24-1.)

9. Denied as the Ordinance speaks for itself (Doc. 24-1) and denied that the City “interprets the ordinance to punish a counselor’s viewpoint” on the ground that it misstates the cited testimony. (Docs. 133-2, 133-3.)

¹ The City denies the improper legal argument or conclusory statements in each of the Plaintiffs’ headings. For purposes of clarity and in accordance with this Court’s judicial preferences, the City will respond to each numbered paragraph and include the headings to comply with the judicial preference that disputed facts mirror the statement of undisputed facts.

D. There is No Legislative or Other Record of Complaints of Harm from SOCE in Tampa.

10. Admitted.

E. The Ordinance is not Supported by Empirical Evidence of Harm from Conversion Therapy.

1. Neither the City Nor the APA Report Can Quantify Harm from Conversion Therapy

11. Admitted that the Ordinance incorporates and references the leading mental health consensus on conversion therapy, but the City denies the characterization of “claims justification.” (Doc. 24-1.) Denied that “none of the other Sources updates” the APA Report, as each of these studies speak for themselves. (Doc. 24-1, 24-2, 24-3, 24-4.)

12. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

13. Admitted.

14. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report and the testimony of the City’s experts are denied; the APA Report and testimony speak for themselves. (Doc. 24-1, 24-2, 24-3; 190-2; 192-2.)

2. The APA Report Disclosed Anecdotal Evidence of Benefits from SOCE at Least Equivalent to Anecdotal Evidence of Harm, and More Benefits Perceived by Religious Individuals.

15. Plaintiffs’ inaccurate characterizations of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

16. The City admits that the language from the APA Report is quoted accurately, but denies this paragraph on the ground that it omits necessary context including the APA Report’s subsequent conclusion that “[g]iven the findings of limited efficacy of change of

sexual orientation, it is unlikely that SOCE provides any unique benefits other than those documented for the social support mechanisms of mutual help groups.” (Doc. 24-3, p. 453.)

17. Admitted that the APA Report concluded that conversion therapy by means of aversive techniques have been shown to cause harm. Plaintiffs’ inaccurate characterizations of the conclusions of the APA Report are otherwise denied as the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

18. Admitted that the quoted language from the APA Report is accurate.

3. The APA Report Excluded Gender Identity Change Efforts, Which Similarly Lack Empirical Research.

19. Plaintiffs’ inaccurate characterizations of the conclusions of the APA Report and the American Academy of Child and Adolescent Psychiatry (“AACAP”) Practice Parameter on Gay, Lesbian, or Bisexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents are denied because they omit necessary context and they speak from themselves. (Doc. 24-3, 24-4).

20. Plaintiffs’ inaccurate characterizations of the conclusions of the APA Report and the AACAP Guidance are denied on the ground that they omit necessary context. The APA Report and the AACAP Guidance expressly reject conversion therapy as an appropriate or safe treatment for minors. (Doc. 24-3, 24-4, 24-5, p. 556; Doc. 24-4, p. 510-527.)

21. Plaintiffs’ inaccurate characterizations of the conclusions of the APA TGNC Guidelines for Psychological Practice with Transgender and Gender Nonconforming People are denied on the grounds that they omit necessary context, including the following statement that: “When addressing psychological interventions for children and adolescents, the World Professional Association for Transgender Health Standards of Care identify interventions ‘aimed at trying to change gender identity and expression to become more congruent with sex assigned at birth’ as

unethical.” The APA TGNC Guidelines speak for themselves. The prevailing standard of care does not permit conversion therapy to change a child’s gender identity. (Docs. 135-1, p. 2759; 192-2, 142:15-24; 190-6.)

22. Plaintiffs’ inaccurate characterizations of the conclusions of the APA TGNC Guidelines are denied as the APA TGNC Guidelines speak for themselves and the prevailing standard of care does not endorse or permit conversion therapy to change a child’s gender identity. (Docs. 192-2, 142:15-24; 190-6.)

23. The City denies the Plaintiffs’ claim that the citation within the AACAP Statement of a seventeen-year old article by Meyer-Bahlburg indicates agreement with or endorsement of the approach discussed in the article. The prevailing standard of care does not endorse or permit conversion therapy to change a child’s gender identity. (Docs. 192-2, 142:15-24; 190-6.)

4. The APA Report Commends a Client-Directed Approach to Therapy for Clients with Unwanted Same-Sex Attractions, Commends More Research on Voluntary SOCE, and Condemns Only Coercive Therapies.

24. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

25. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

26. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

27. Plaintiffs’ inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

28. Plaintiffs' inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

29. Plaintiffs' inaccurate characterization of the conclusions of the APA Report are denied; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

30. The City denies Plaintiffs' inaccurate characterizations of the conclusions of the APA Report on the ground that they omit necessary context, including the APA Report's conclusion that "We recommend that LMHP [licensed mental health professionals] provide multiculturally competent and client-centered therapies to children, adolescents, and their families rather than SOCE" (Doc. 24-2, p. 448) and that "We believe that simply providing SOCE to clients who request it does not necessarily increase self-determination but rather abdicates the responsibility of LMHP [licensed mental health professionals] to provide competent assessment and interventions that have the potential for benefit with a limited risk of harm." (Doc. 24-2, p. 437). The APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

31. The City denies Plaintiffs' inaccurate characterizations of the conclusions of the APA Report on the ground that they omit necessary context, including the APA Report's conclusion that "We recommend that LMHP [licensed mental health professionals] provide multiculturally competent and client-centered therapies to children, adolescents, and their families rather than SOCE" (Doc. 24-2, p. 448) and that "We believe that simply providing SOCE to clients who request it does not necessarily increase self-determination but rather abdicates the responsibility of LMHP [licensed mental health professionals] to provide competent assessment and interventions that have the potential for benefit with a limited risk of harm." (Doc. 24-2, p. 437). The APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

32. The City denies Plaintiffs' inaccurate characterization of the conclusions of the APA Report, which conclude "We recommend that LMHP [licensed mental health professionals] provide multiculturally competent and client-centered therapies to children, adolescents, and their families rather than SOCE." (Doc. 24-2, p. 448.)

33. The City denies Plaintiffs' inaccurate characterization of the conclusions of the APA Report, which conclude "We recommend that LMHP [licensed mental health professionals] provide multiculturally competent and client-centered therapies to children, adolescents, and their families rather than SOCE." (Doc. 24-2, p. 448.)

34. The City denies Plaintiffs' inaccurate characterization of the conclusions of the APA Report, which conclude "We recommend that LMHP [licensed mental health professionals] provide multiculturally competent and client-centered therapies to children, adolescents, and their families rather than SOCE" (Doc. 24-2, p. 448.)

5. The APA Report Specifically Calls for Therapists to Respect and Consider that Religious Values of Individuals Desiring Therapy.

35. Admitted that the language from the APA Report is quoted accurately; the APA Report speaks for itself. (Doc. 24-1, 24-2, 24-3.)

6. No Study Since the 2009 APA Report Updates or Changes the Empirical Record.

36. The City denies that the studies and reports have not updated the empirical record of the harms correlated with conversion therapy; the documents speak for themselves. (Docs. 142-3; 24-4.)

37. Admitted.

38. Admitted as to the Endocrine Guidelines speak for themselves but immaterial to the application of the Ordinance. (Doc. 192.) The prevailing standard of care does

not endorse or permit conversion therapy to change a child's gender identity. (Docs. 192-2, 142:15-24; 190-6.)

39. Admitted that the WPATH standards speak for themselves but immaterial to the application of the Ordinance. (Doc. 192-12.) The prevailing standard of care does not endorse or permit conversion therapy to change a child's gender identity. (Docs. 192-2, 142:15-24; 190-6.)

40. The City denies the Plaintiffs' inaccurate characterization of Dr. Spack's testimony on the ground that they omit necessary context including Dr. Spack's statement that the prevailing standard of care does not endorse or permit conversion therapy to change a minor's gender identity. (Doc. 192-2, 142:15-24.)

F. Tampa Did Not Tailor the Ordinance to Any Identified Interest or the Realities of SOCE Counseling

41. Denied as other alternatives to a total ban were presented at the public hearings and considered but rejected by the City because other alternatives were not an adequate remedy to serve the City's compelling interest in protecting minors from the harms of conversion therapy. (Docs. 26-3, pp. 6-8; 26-4 pp. 23-26; 28-33; Doc. 24-1, p. 5 "minors receiving treatment from licensed therapists in the City of Tampa, Florida who may be subject to conversion or reparative therapy are not effectively protected by other means. . . ." .)

G. Tampa Code Officials Are Not Qualified or Equipped to Enforce the Ordinance's Therapy Ban.

42. Denied as the City Code enforcement officials are not making the determination as to whether the Ordinance was violated. (Doc. 133-1, Ruggiero Dep. 24:16—25:5.)

43. Denied as the as the City Code enforcement officials are not making the determination as to whether the Ordinance was violated. (Doc. 133-1, Ruggiero Dep. 24:16—25:5.)

44. Admitted that “Tampa code officials are instructed to refer all potential ‘conversion therapy’ cases to the City’s legal department for handling” but denied as to the characterization of the testimony of Ruggiero and Simpson. (Doc. 133-3; 133-1.)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of September, 2019, I caused a true and correct copy of the foregoing to be served via electronic mail on counsel for Plaintiff, Horatio G. Mihet (hmihet@lc.org), Roger Gannam (rgannam@lc.org), and Daniel J. Schmid (dscmid@lc.org).

/s/ Robert V. Williams
Attorney

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