

Case No. 20-3289

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

NICHOLAS K. MERIWETHER,
Plaintiff-Appellant

v.

THE TRUSTEES OF SHAWNEE STATE UNIVERSITY, *et al.*,
Defendant-Appellees

On Appeal from the U.S. District Court for the Southern District of Ohio,
Case No. 1:18-cv-753 (Hon. Susan J. Dlott)

**MOTION OF WOMEN’S LIBERATION FRONT
FOR LEAVE TO FILE *AMICUS* BRIEF**

Women’s Liberation Front (“WoLF”) hereby requests leave to file as *amicus* in support of Appellant, Nicholas K. Meriwether (“Dr. Meriwether”), pursuant to Fed. R. App. Proc. 29. Counsel for the parties have informed counsel for movants as follows: Dr. Meriwether consents to filing of the *amicus* brief; Defendant-Intervenors Jane Doe and Sexuality and Gender Acceptance consent to the filing of the *amicus* brief; the Trustees of Shawnee State University, *et al.* do not consent to the filing of the *amicus* brief. WoLF’s proposed brief is attached to this motion.

I. NATURE OF THE CASE

This appeal stems from a lawsuit filed by Dr. Meriwether to challenge the actions of Shawnee State University officials in punishing him for expressing his

views about the concept of “gender identity,” and for refusing to engage in speech affirming a belief in the “self-asserted gender identity” of one of his students. ECF 21, Appellant’s Statement of Parties and Issues; District Court Order Adopting Report and Recommendation (Feb. 12, 2020), R.60 at 2402; Magistrate’s Report and Recommendation (Sept. 5, 2019), R.49 at 2108-2110. The district court granted the Shawnee State defendants’ motion to dismiss the amended complaint and accordingly dismissed the action. *Id.* at 2156.

Key to the ruling below is the issue of whether Dr. Meriwether’s speech was “on a matter of ‘public concern’ [and is] therefore . . . protected under the test of *Garcetti v. Ceballos*, 547 U.S. 410 (2006).” *Id.* at 2108.

II. MOVANT’S INTERESTS

Women’s Liberation Front (“WoLF”) is an organization of radical feminists dedicated to the liberation of women by ending male violence, protecting women’s sexual and reproductive sovereignty, preserving woman-only spaces, and abolishing gender and sex discrimination. WoLF has nearly 800 members who live, work, and attend or teach in schools across the U.S. and abroad, including some who attend publicly-funded schools situated within the 6th Circuit.

WoLF’s interest in this case stems from its interest in preserving women’s sex-based civil rights and liberties, including the rights of free speech and freedom

from coerced speech for our organization and its members, and indeed all women and girls. These interests are thwarted by the ruling below.

WoLF's proposed brief seeks to demonstrate the ways in which Dr. Meriwether's speech, which sparked disciplinary action by his University, bears on a large range of matters that are of serious concern to women and girls. Like Dr. Meriwether, WoLF members who live and attend or teach in public educational institutions within the 6th Circuit may be subject to punishment if they refuse to use language that expresses a belief in the concept of "gender identity."

WoLF's interests and the interests of its members would also be harmed by subsequent application of the district court's ruling in other settings, including (as further detailed in the proposed brief): their ability to obtain and give accurate medical information in publicly-funded clinic; their ability to obtain the benefits of programs and facilities aimed at preventing or remediating sex discrimination in the educational arena; their ability to maintain safety and privacy in women's dormitories, women's prisons, and women's emergency domestic violence and homeless shelters; and their ability to obtain accurate information about the sex of criminal perpetrators for purposes of identifying, analyzing, and tracking patterns in male violence against women and girls.

III. DESIRABILITY AND RELEVANCE OF MOVANTS' PARTICIPATION

WoLF's participation will not inject new legal questions into the litigation, nor will its proposed brief present arguments unrelated to the legal questions that were before the district court.

WoLF's participation as amicus will be of assistance to the Court's resolution of the issues. WoLF's familiarity with the issue of "gender identity," and specifically with the potential implications for women's legal rights and interests, are demonstrated in their pleadings or *amicus* briefs filed in a number of cases presenting questions similar to those presented in this matter, including:

- *Women's Liberation Front v. U.S. Dept. of Justice, et al.*, No. 1:16-cv-00915 (D.N.M. Aug. 11, 2016) (voluntarily dismissed as moot) (New Mexico female university and high school students sued the Department of Justice, arguing that the then-existing "Dear Colleague" letter issued by the U.S. Department of Justice and U.S. Department of Education on May 13, 2016¹ was unlawful).

¹ U.S. Dep't of Just. and U.S. Dep't of Educ., "Dear Colleague Letter on Transgender Students" (2016), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

- *Gloucester County School Bd. v. G.G.*, 137 S. Ct. 1239 (2017) (high school female student sued her school board, arguing that she had the right to use intimate spaces reserved for boys);
- *Doe v. Boyertown Area Sch. Dist.*, No. 17-3113 (3d Cir. 2018) (group of male and female students sued their school district for failing to preserve single-sex spaces; and
- *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Empt. Opp. Comm’n*, (Sup. Ct. No. 18-107) (male former funeral home employee sued his former employer, arguing that the employer was legally obligated to deny the material reality of biological sex and engage in compelled speech).

Additionally, WoLF brings a unique perspective to this topic. The entire concept of “gender identity” is highly contentious throughout society and the law (throughout the U.S. and in the world generally), but its particular impact on the rights, privacy, and safety of women and girls is often lost in the discussion. WoLF supports Dr. Meriwether’s claims and also believes that the Court would benefit from hearing the additional arguments of a radical feminist organization.

IV. REQUEST FOR RELIEF

For the foregoing reasons, proposed *amicus*, Women’s Liberation Front, requests leave of this court to file the attached *amicus* brief.

Respectfully submitted this 3rd day of June, 2020.

Jennifer C. Chavez, Esq.
1800 M Street, NW, Unit 33943
Washington, DC 20033
jennifer.c.chavez@outlook.com
(540) 918-0186
Counsel for Women's Liberation Front

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2020, I filed the foregoing MOTION OF WOMEN'S LIBERATION FRONT FOR LEAVE TO FILE AMICUS BRIEF using the CM/ECF system, which caused an electronic notification to be sent to the following attorneys of record:

Paul R. Kerridge
Keating Muething & Klekamp, PLL
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202
Telephone: (513) 579-6468
Facsimile: (513) 579-6457
pkerridge@kmklaw.com

Attorneys for Defendants

Shannon P. Minter
Asaf Orr
Christopher F. Stoll
National Center for Lesbian Rights
870 Market Street Suite 370
San Francisco, California 94102
Telephone: (415) 392-6257
Facsimile: (415) 392-8442
sminter@nclrights.org
aorr@nclrights.org
cstoll@nclrights.org

Jennifer L. Branch
Gerhardstein & Branch, Co. LPA
441 Vine Street, Suite 3400
Cincinnati, Ohio 45202
Telephone: (513) 621-9100
Facsimile: (513) 345-5543
jbranch@gbfirm.com

Attorneys for Defendant-Intervenors

Dated: June 3, 2020

/s/ Jennifer C. Chavez, Esq.
Jennifer C. Chavez, Esq.
Counsel for Women's Liberation Front