

No. 21-10486

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

◆

DARCY CORBITT, et al.,
Plaintiffs-Appellees,

v.

HON. HAL TAYLOR, in his official capacity as Secretary of the Alabama Law Enforcement
Agency, *et al.*,
Defendants-Appellants.

◆

On Appeal from the United States District Court
for the Middle District of Alabama
Case No. 2:18-cv-00091-MHT-SMD

**APPELLANTS' UNOPPOSED MOTION FOR LEAVE TO
FILE DOCUMENTS UNDER SEAL**

Steve Marshall
Attorney General
Edmund G. LaCour Jr.
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June 10, 2021

Counsel for the State Defendants

AMENDED CERTIFICATE OF INTERESTED PERSONS

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, the undersigned counsel certifies that the following listed persons and parties may have an interest in the outcome of this case:

1. Alabama Attorney General's Office;
2. Alabama Center for Law and Liberty;
3. Alabama Law Enforcement Agency;
4. Alabama Policy Institute;
5. American Civil Liberties Union Foundation;
6. American Civil Liberties Union Foundation of Alabama;
7. American Civil Liberties Union of Alabama;
8. Archer, Jon;
9. Arkles, Gabriel;
10. Barnes, Meridith H.;
11. Barnes, Noel S.;
12. Boone, Brock;
13. Borden, Hon. Gray M.;
14. *Butts, Talmadge;
15. Chynoweth, Brad A.;
16. Clark, Destiny;

17. Clark, Matthew J.;
18. Cooper, Leslie J.;
19. Corbitt, Darcy;
20. Davis, James W.;
21. Doe, Jane (*see* DE41);
22. Doe, John (*see* DE10);
23. Doyle, Hon. Stephen M.;
24. Eastman, Jeannie;
25. *Eidsmoe, John A.;
26. Esseks, James D.;
27. Faulks, LaTisha Gotell;
28. *Foundation for Moral Law;
29. LaCour Jr., Edmund G.;
30. Marshall, Randall C.;
31. Marshall, Hon. Steve;
32. Messick, Misty S. Fairbanks;
33. *Moore, Roy S.;
34. Pregno, Deena;
35. Robinson, Michael W.;
36. Saxe, Rose;

37. Sinclair, Winfield J.;
38. Taylor, Hon. Hal;
39. Thompson, Hon. Myron H.;
40. Transgender Legal Defense and Education Fund;
41. Ward, Charles;
42. Welborn, Kaitlin; and,
43. Wilson, Thomas A.

Counsel for the Appellants further certify that no additional publicly traded company or corporation has an interest in the outcome of this case or appeal.

Respectfully submitted this 10th day of June, 2021.

s/ Edmund G. LaCour Jr.

Edmund G. LaCour Jr.

Counsel for the State Defendants

**UNOPPOSED MOTION FOR LEAVE TO
FILE DOCUMENTS UNDER SEAL**

The State Defendants¹ (hereinafter “the State”) file this unopposed Motion for leave to file, as part of the Appendix accompanying their Opening Brief, the following documents under seal:

- Defendants’ Exhibit 3 in Support of Their Motion for Summary Judgment – Deposition of Jane Doe taken November 13, 2018 (February 8, 2019) (DE48-3)²
- Defendants’ Exhibit 11a in Support of Their Motion for Summary Judgment – Defendants’ Deposition Exhibits 16-26 (February 8, 2019) (DE48-13)
- Defendants’ Exhibit 16 in Support of Their Motion for Summary Judgment – Medical Records of Nonparties Who Obtained Changes to Sex on Alabama Driver Licenses Bates Labeled D1138-1259 (February 8, 2019) (DE48-18)

The State filed these documents under seal in the district court, and the rationale for doing so there applies with equal force here. *See* DE41; DE47; DE55.

Plaintiffs are challenging the State’s policy concerning changing the sex designation on their driver licenses. Plaintiff Jane Doe moved for leave to proceed under a pseudonym and for a protective order, arguing that Doe’s “transgender status

¹ Alabama Law Enforcement Agency (ALEA) Secretary Hal Taylor, Department Director Colonel Charles Ward, Chief of the Driver License Division Deena Pregno, and Driver License Supervisor Jeannie Eastman were originally the State Defendants in this official capacity suit. *See* DE38:1, 3-4. Chief Jon Archer is now Chief of the Driver License Division, and is substituted for Chief Pregno, *see* Fed. R. App. P. 43(c).

² “DE” refers to docket entries in the district court.

and medical condition are sensitive and highly personal.” DE35. The district court granted Plaintiffs’ motion. DE41. To continue to give that ruling effect and protect Jane Doe’s identity, the State requests that Doe’s deposition and the exhibits thereto, *i.e.*, Defendants’ Deposition Exhibits 16 to 26, be filed with this Court under seal.

Additionally, Plaintiffs requested that the State produce records of *non-parties* who requested changes to the sex designation on their Alabama driver’s licenses. Prior to this production, the district court entered a Protective Order regarding the production of Confidential Information in this suit. *See* DE33. The State further requested, and the court again granted, a separate order regarding the use of information potentially protected by HIPAA. *See* DE43. The State produced redacted versions of these records Bates-stamped D1138–1259. These documents should be sealed to protect the sensitive medical information of persons who are not parties to this litigation.

For all the reasons explained above and in the district court, *see* DE35, DE47, the State requests that this Court, like the district court, permit these documents to be filed under seal. The State has conferred with Plaintiffs’ counsel regarding this request, and Plaintiffs’ counsel have stated they do not oppose this motion.

Respectfully Submitted,

Steve Marshall

Attorney General

s/Edmund G. LaCour Jr. _____

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Counsel for the State Defendants

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. I certify that this motion complies with the type-volume limitations set forth in Fed. R. App. P. 27(d)(2)(A). This motion contains 448 words, including all headings, footnotes, and quotations, and excluding the parts of the motion exempted under Fed. R. App. P. 32(f).

2. In addition, this motion complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

/s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Counsel for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2020, I filed the foregoing petition using the Court's CM/ECF system, which will serve all counsel of record.

/s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Counsel for State Defendants