

Case No. 21-15668

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**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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D.H., by and through his mother, Janice Hennessy-Waller; and JOHN DOE, by his  
guardian and next friend, Susan Doe,

*Plaintiffs-Appellants,*

v.

JAMI SNYDER,

*Defendant-Appellee.*

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On Appeal from the United States District Court for the District of Arizona  
The Honorable Scott H. Rash  
District Court Case No. 4:20-cv-00335-SHR

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**BRIEF OF TRANSGENDER YOUTH SUPPORT ORGANIZATIONS  
AS *AMICI CURIAE* IN SUPPORT OF APPELLANTS, AND FOR  
REVERSAL**

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**STATEMENT OF CORPORATE DISCLOSURE**

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici curiae* Arizona Trans Youth and Parent Organization, Gender Diversity, Gender Spectrum, PFLAG, Inc., Southern Arizona Gender Alliance, Inc., TransActive Gender Project, TransFamily Support Services, and Trans Youth Equality Foundation, by and through undersigned counsel, state that they are nonprofit organizations and therefore are not publicly held corporations that issue stock, nor do they have parent corporations.

Dated: May 21, 2021

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## INTRODUCTION

Growing up in Los Angeles, California, Adi E. was a joyful and energetic child. But at the onset of puberty, Adi's mother Dale recalls, Adi began to refuse to go out in public and suffered debilitating anxiety that caused panic attacks, constant stomach pain, and plummeting performance at school. After working with a therapist, Adi came out to his family as a transgender male, and, Dale remembers, his anxiety almost immediately gave way to palpable relief. However, Adi continued to experience severe gender dysphoria that caused his depression and anxiety to return, and he took to wearing a binding to hide his feminine chest that was so tight around his torso that he became unable to take a deep breath. Adi's doctors prescribed male chest reconstruction surgery, and following extensive advocacy by Adi's parents, psychiatrists, psychologists, and other doctors, the family's insurance plan at last agreed to cover the costs of the procedure when Adi turned sixteen. Dale believes that the surgery "gave [Adi] his life back." Now eighteen, Adi is a thriving young man who works full time as a preschool teacher and is attending college to earn a teaching credential.

For as long as he can remember, Sam Staas knew he was a boy, regardless of how others saw him. Raised in Tempe, Arizona, Sam lacked the vocabulary to express that he was transgender until he was thirteen, at which time he promptly came out to his family. Like Adi, Sam was immediately relieved, but as his body

changed during puberty, he suffered gender dysphoria that caused crippling fear about how he was perceived in public and prompted him to bind his chest so tightly he suffered ongoing pain in his ribs. Sam's doctors prescribed male chest reconstruction surgery to treat his condition, and after he obtained the procedure at eighteen, his family was overjoyed to see him finally able to feel proudly and comfortably himself in his own body. Sam, today an avid outdoorsman and professional artist of twenty-two, recalls putting on a shirt after his surgery and feeling overjoyed "that this was absolutely right for me and there was no doubt in my mind."

The challenges faced by Adi and Sam are, unfortunately, not isolated or rare. Every day, thousands of young transgender men across America suffer the physically and psychologically debilitating effects of severe gender dysphoria, which can manifest itself in anxiety, depression, and even suicidality. For many, male chest reconstruction surgery is recognized as urgent and medically necessary treatment. Some of these young men and their parents have chosen to share their very personal stories here to help the Court understand the youth affected by policies that categorically deny medical coverage for urgent and effective treatment for gender dysphoria to young men in financial need.

## INTEREST OF *AMICI CURIAE*<sup>1</sup>

*Amici* are eight organizations that support and advocate for the rights of transgender youth and work with families to ensure that transgender youth can lead authentic lives without barriers or discrimination.

**Arizona Trans Youth and Parent Organization** is a support group that empowers transgender children, teens, and their families in a supportive and inclusive environment. It provides peer-to-peer support for transgender children and their siblings, and facilitates discussions with parents, family, friends, and caretakers of transgender children as to the challenges, concerns, struggles, and successes of transgender children.

**Gender Diversity**, an organization led by trans people and parents of trans children, is dedicated to increasing awareness and understanding of the wide range of gender variations in children, adolescents, and adults. Through trainings, group meetings, individual consultations, and conferences, Gender Diversity provides support to families raising transgender and gender-diverse children and teens. It also

<sup>1</sup> Plaintiffs-Appellants consent to this filing, and Defendants-Appellees do not object to this filing; *amici* file this brief pursuant to that authority. *See* Fed. R. App. P. 29(a)(2). No party's counsel authored this brief in whole or in part, no party or party's counsel contributed money intended to fund preparation or submission of this brief, and no person other than *amici* and their counsel contributed money intended to fund preparation or submission of this brief. *See* Fed. R. App. P. 29(a)(4)(E).

offers professional level education and training programs to healthcare providers to increase the understanding of transgender populations of all ages, including identifying best practices and standards of care.

**Gender Spectrum** is a non-profit organization whose mission is to create a gender-inclusive world for all children. Gender Spectrum provides an array of services to help youth, families, schools, and organizations understand and address gender identity and gender expression. These services include running trainings for schools and coordinating local and national support groups for transgender youth and their families.

**PFLAG, Inc.** is the nation's largest LGBTQ family and ally nonprofit organization, with more than 250,000 members and supporters and 400 affiliates. PFLAG's members are parents, children, grandparents, siblings, other family members, allies, and friends of lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals. Founded in 1972, PFLAG is committed to advancing equality and full societal affirmation of LGBTQ people through its threefold mission of support, education, and advocacy.

**Southern Arizona Gender Alliance, Inc.** is a non-profit organization that provides support, education, resources, and advocacy for Southern Arizona's diverse community of trans and gender nonconforming (TGNC) individuals. They do so through providing trainings to businesses, nonprofits, and government agencies;

facilitating monthly support groups for TGNC individuals, family, and friends; hosting community building events; providing medical and psychological professional referrals for TGNC clients; and providing legal assistance to TGNC individuals pertaining to name and gender marker change and trans-related discrimination cases.

**TransActive Gender Project** (“TransActive”), at Lewis & Clark Graduate School of Education and Counseling, a non-profit organization, was founded by transgender individuals dedicated to supporting transgender and gender-diverse youth. TransActive is committed to helping parents, caregivers, and communities understand that the imposition of narrow, binary-only gender stereotypes and expectations negatively impacts the well-being of all children. TransActive provides a holistic range of services and expertise to empower transgender and gender-diverse children, youth, and their families in living healthy lives, free of discrimination.

**TransFamily Support Services** guides transgender and non-binary youth and their families through the gender transitioning process. It provides family coaching, assistance with healthcare and insurance issues, and assistance navigating the legal system, all at no cost to those requiring its services.

**Trans Youth Equality Foundation** is a national non-profit organization that provides education, advocacy, and support for transgender children and their families. Its mission is to share information about the unique needs of this

community, partnering with families, educators, and service providers to help foster a healthy, caring, and safe environment for all transgender children. Among its many services, Trans Youth Equality Foundation facilitates a workshop for physicians, nurses, clinical staff, therapists, support group leaders, counselors, and all providers that work with trans youth who suffer from body dysphoria.

Given their missions, *amici* have a strong interest in ensuring the ability of transgender youth who suffer from gender dysphoria to have access to critical treatment. These organizations, and the transgender youth and families with whom they work, are uniquely positioned to address the profound and deleterious effects of gender dysphoria on transgender adolescents. They can also speak to the positive effects of treatment for gender dysphoria, including surgical treatment for those who need it, allowing transgender youth to be their true selves.

### **SUMMARY OF ARGUMENT**

*Amici* request that this Court reverse the district court's decision, and direct entry of the Plaintiffs-Appellants' requested preliminary injunction preventing enforcement of Defendant's categorical exclusion of surgical treatment for gender dysphoria. *Amici* offer the unique perspective of young transgender men and their families who are particularly able to explain their experiences with gender dysphoria, the urgent necessity of surgical treatment for their dysphoria, and the life-changing—and often lifesaving—impact of that treatment. Through the personal

stories presented, *amici* seek to provide a broader view of transgender youth, and to help the Court understand the importance of guaranteeing access to critical surgical treatment for those who need it.

## ARGUMENT

### I. ACCESS TO SURGICAL TREATMENT FOR GENDER DYSPHORIA CAN BE CRITICAL TO THE DIGNITY AND PHYSICAL AND PSYCHOLOGICAL WELL-BEING OF TRANSGENDER ADOLESCENTS.

Gender identity is a person’s inner sense of belonging to a particular gender.<sup>2</sup> It is an innate, core component of human identity that everyone possesses, and depends heavily on biological and genetic factors.<sup>3</sup> For transgender individuals, their “‘deeply felt, inherent sense’ of their gender . . . does not align with their sex assigned at birth.” *Edmo v. Corizon, Inc.*, 935 F.3d 757, 768 (9th Cir. 2019) (quoting Am. Psych. Ass’n, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70 Am. Psych. 832, 834 (2015)). Transgender individuals unsurprisingly often begin to experience and express their gender identity at an early age.<sup>4</sup>

<sup>2</sup> Jason Rafferty, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 Pediatrics 1, 2 tbl.1 (2018).

<sup>3</sup> Blaise Vanderhorst, *Whither Lies the Self: Intersex and Transgender Individuals and a Proposal for Brain-Based Legal Sex*, 9 Harv. L. & Pol’y Rev. 241, 259–60 (2015) (reviewing scientific research); Milton Diamond, *Transsexuality Among Twins: Identity Concordance, Transition, Rearing, and Orientation*, 14 Int’l J. of Transgenderism 24, 24, 34–35 (2013).

<sup>4</sup> Am. Psych. Ass’n, *Gender Dysphoria*, Diagnostic & Statistical Manual of Mental

Transgender individuals experience gender dysphoria—the feeling of distress “caused by a discrepancy between a person’s gender identity and that person’s sex assigned at birth.” *Edmo*, 935 F.3d at 768 (quoting World Prof. Ass’n for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People 2* (7th ed. 2011) (“Standards of Care”)). Studies consistently demonstrate that transgender individuals, and in particular, transgender youth, experience gender dysphoria, including depression, disordered eating, and self-harm at far higher rates than their non-transgender peers.<sup>5</sup> Transgender individuals are also more likely to suffer suicidal ideation and attempt suicide than those who are not transgender, a disparity that begins in adolescence and poses an increased risk to young people.<sup>6</sup>

Though serious, gender dysphoria is a treatable medical condition. *Edmo*, 935 F.3d at 769. According to established medical consensus, the only effective treatment for the potentially disabling experience of gender dysphoria is to enable a

Disorders (5th ed. 2013).

<sup>5</sup> Maureen D. Connolly et al., *The Mental Health of Transgender Youth: Advances in Understanding*, 59 J. Adolescent Health 489, 491–93 (2016); see also *Edmo*, 935 F.3d at 769.

<sup>6</sup> Kasey B. Jackman et al., *Suicidality Among Gender Minority Youth: Analysis of 2017 Youth Risk Behavior Survey Data*, Archives of Suicide Rsch. 1, 1–2, 13 (2019); *Edmo*, 935 F.3d at 769.

transgender person to live fully in accordance with the person’s gender identity.<sup>7</sup> For many transgender adolescents—particularly transgender males—chest reconstruction surgery, commonly referred to as a form of “top surgery,” is prescribed as a medically necessary treatment for their gender dysphoria after the onset of puberty and related physical changes.<sup>8</sup>

The Standards of Care—recognized as “the appropriate benchmark regarding treatment for gender dysphoria,” *Edmo*, 935 F.3d at 767—establish that male chest reconstruction surgery is an “evidence-based treatment option[] for individuals with gender dysphoria.” *Id.* at 770. Where it is deemed medically necessary, “the surgery is not considered experimental or cosmetic; it is an accepted, effective, medically indicated treatment for gender dysphoria.” *Id.* (quoting *De’lonta v. Johnson*, 708 F.3d 520, 523 (4th Cir. 2013)). Those standards also expressly contemplate that male chest reconstruction surgery can be necessary for transgender adolescents.<sup>9</sup> Multiple state Medicaid programs and major insurance companies provide for coverage of top surgery for transgender men experiencing gender dysphoria,

<sup>7</sup> Rafferty, *Ensuring Comprehensive Care*, *supra*, 5–7.

<sup>8</sup> *Id.*; Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 J. Clinical Endocrinology & Metabolism 3869, 3872 (2017); *see also Edmo*, 935 F.3d at 770.

<sup>9</sup> Standards of Care at 21.

recognizing it to be a necessary and effective treatment, and in many cases relying on the Standards of Care for guidance.<sup>10</sup>

Transgender adolescents who undergo top surgery typically report positive benefits including increased confidence and reduced social isolation and depression.<sup>11</sup> Some transgender males who do not receive top surgery may be forced to resort to “chest binding,” using clothing or other materials to compress chest tissue in order to produce a typically masculine appearance.<sup>12</sup> Though chest binding can partially mitigate certain harms associated with gender dysphoria on a temporary basis for some people, it is not an adequate substitute for medically needed care and

<sup>10</sup> See, e.g., Wash. Admin. Code § 182-531-1675(2)(e)(ii) (providing for coverage of “top surgery with or without chest reconstruction” for Medicaid beneficiaries ages seventeen and younger); Cal. Dep’t of Health Care Servs., Ensuring Access to Medi-Cal Services for Transgender Beneficiaries (APL 16-013) at 1–2 (Oct. 6, 2016) (requiring all Medi-Cal plans to provide medically necessary reconstructive surgery to transgender beneficiaries and indicating that the Standards of Care comprise a “comprehensive discussion” of the “treatment of transgender individuals”); Or. Health Evidence Rev. Comm’n, Prioritized List of Health Services, Guideline Note 127, Gender Dysphoria at GN-33 (Feb. 1, 2021) (providing for coverage of “breast/chest surgeries” in accordance with the Standards of Care); Anthem Clinical UM Guideline, Gender Reassignment Surgery, Guideline No. CG-SURG-27 (Feb. 18, 2021) (providing for coverage of top surgery in individuals under 18 years old diagnosed with gender dysphoria, and characterizing the Standards of Care as “the definitive document in the area of gender dysphoria treatment”).

<sup>11</sup> L. Nelson et al., *Transgender Patient Satisfaction Following Reduction Mammoplasty*, 62 J. Plastic, Reconstructive & Aesthetic Surgery 331, 333 (2009).

<sup>12</sup> Sarah Peitzmeier et al., *Health Impact of Chest Binding Among Transgender Adults: A Community-Engaged, Cross-Sectional Study*, 19 Culture, Health & Sexuality 64, 64–65 (2017).

causes substantial negative health effects, including back and chest pain as well as shortness of breath.<sup>13</sup>

## **II. THE EXPERIENCES OF TRANSGENDER YOUTH AND THEIR FAMILIES CONFIRM THAT SURGICAL TREATMENT FOR GENDER DYSPHORIA IS OFTEN BOTH NECESSARY AND URGENT.**

As Plaintiffs-Appellants' expert testimony before the district court explained, the Standards of Care are clear: male chest reconstruction surgery is a safe and effective treatment for gender dysphoria. Indeed, the experiences of transgender youth and their families, who understand firsthand the impacts of gender dysphoria and the benefits of surgical treatment, illustrate that the treatment is empowering, profound, and lifesaving. For the individuals described below, surgical treatment for gender dysphoria was not only safe and effective but addressed an urgent need to abate otherwise needless suffering from the profound effects of dysphoria. Their lived experiences are consistent with studies specifically demonstrating the effectiveness of such treatment for gender dysphoria in transgender adolescents.<sup>14</sup>

### **A. Adi E. – Los Angeles, California**

Adi E. is eighteen years old and lives in Los Angeles, California, with his mother Dale, father Dario, and older sibling Jordan. Adi is an artist who works in a

<sup>13</sup> *Id.* at 66, 69–70.

<sup>14</sup> Johanna Olson-Kennedy et al., *Chest Reconstruction and Chest Dysphoria in Transmasculine Minors and Young Adults: Comparisons of Nonsurgical and Postsurgical Cohorts*, 172 *JAMA Pediatrics* 431, 434–36 (2018).

variety of media, including watercolor and stained glass. He attends college and is studying for his teaching credential. He also works full time as a preschool teacher, and he believes he has found his calling working with children.



*Adi E.*

Dale recalls Adi as a happy and bubbly child. But around age eleven, with the onset of puberty, Adi suddenly lost that carefree attitude. Dale notes that Adi “began to refuse to go out in public or have his picture taken,” and he stopped attending family functions. Adi began experiencing severe anxiety that plagued his

day-to-day life: where he had once been a straight-A student who loved school, he now “couldn’t go to school without experiencing panic attacks.” Adi was unable to even sit through class, and his grades began to suffer. He endured chronic, excruciating stomach pain. Adi’s parents thought that the only explanation for such sudden and severe issues must be a serious illness or injury, but repeated visits to doctors and the emergency room revealed no underlying physical ailment.

After working with a therapist, Adi, at fourteen, acknowledged to his family that his gender identity was male. “The moment the words came out of his mouth,” according to Dale, “he changed completely. He was lighter, happier, and clearly relieved.” The stomach pains and anxiety melted away “almost immediately,” and his exemplary grades soon returned. Adi also adopted aspects of a more traditionally masculine appearance in expressing his gender identity, including a short haircut and new clothes. When Dale later asked Adi why he felt he could not come out to them sooner, Adi explained that his online research about transitioning had turned up stories of transgender youth kicked out of their homes and shunned by families that they had thought would love them unconditionally. He was afraid to take that risk.

Despite the clear improvements to his mental health, Adi continued to suffer from extreme gender dysphoria. Adi worked with his family to find a chest binder, but in order for it to be effective, it had to be worn so tightly that he was unable to take full breaths. After a year of using the binder, Adi started to suffer from

interstitial lung disease. He has only recently regained his full lung capacity, and to this day suffers from residual scarring on his lungs. Adi practiced binding both inside and outside of the house, even around his family. Though he had made great strides and changed his name, pronouns, and outward appearance, Adi sunk back into depression related to the dysphoria he experienced because of his chest.

The family's medical insurance initially refused to cover Adi's top surgery. Only after extensive advocacy by his parents explaining that Adi's surgery was a matter of life and death, backed up by letters from multiple psychiatrists and psychologists explaining that the surgery was medically necessary for Adi—indeed, that it was the *only* suitable treatment for his dysphoria and depression—did the insurance company relent. Adi, then sixteen years old, scheduled the surgery immediately; Dale recalls sitting with Adi in the pre-operation room and watching him “smiling from ear to ear.”

In the wake of the surgery, Adi was “sobbing for joy, almost unable to speak for the emotional relief.” Dale describes Adi as having “his confidence, joy, and spark back.” She wonders what life would have been like had the family accepted the insurance company's initial determination and waited until Adi reached eighteen. Without the surgery, Dale does not “believe he would be alive” today. “He was dying—he needed the surgery to survive, and the surgery gave him his life back.”

With the benefit of surgery, Adi is “one of those people who walks in a room and lights it up.” He is now politically active, engaged in work with several prominent politicians and appearing at public events to advocate for equal rights for other transgender people. The appreciation and affirmation he feels working for these causes, while openly expressing his true gender identity, has only further increased his confidence and sense of self. Between his advocacy, work, and passions, Adi lives life joyfully, fully accepted by those around him as the accomplished young man he is.

**B. Sam Staas – Tempe, Arizona**

According to Sam Staas, “I always knew I was a boy, regardless of how others saw me.” When he was a young child, he remembers, he would ask his little sister Chloe to refer to him as her brother when they played house, and he once told his neighbors he was going to be a boy one day. Today, at twenty-two, he lives in western Massachusetts, where he earned his undergraduate degree in ceramics. He is an avid outdoorsman who spends his spare time hiking, boating, and fishing.



*From left to right: Chloe, Sam, Tami, and John*

Sam grew up in Tempe, Arizona, where his father John is an account manager, and his mother Tami is an elementary school teacher. Sam was thirteen when he realized he was transgender, after learning the words that accurately captured who he was. “Immediately, I knew that’s how I identified.” When Sam came out to his parents, Tami watched as her child’s depression was replaced by relief and joy due to the opportunity to finally express his true gender identity to his family.

Tami recalls that she wanted to support Sam in his transition but “didn’t know where to turn. I was cautioned not to pick up the phone and call someone because

social services could show up at my door and take my kid away.” But the family consulted with doctors, and Sam began undergoing hormone therapy two years after coming out. Sam was “thrilled with the effects of the hormone treatment, but I still didn’t feel entirely myself.” He had support from friends and family but was “uncomfortably aware” in public that people looked at him as though he were different. Sam wore a binder, which he found helpful in mitigating his dysphoria temporarily, but insufficient to obtain an appearance that properly matched his gender identity. It was also uncomfortable in the hot Phoenix weather, and over time altered the placement of Sam’s ribs, a physical challenge that persists to this day.

When Sam was seventeen, he and his mother met with a doctor for a consultation regarding top surgery. Sam says that meeting “really started the process of top surgery for me.” Before Sam’s top surgery, Tami was most excited for Sam “to finally be comfortable in his body. Sam was always a swimmer when he was younger, but now he wouldn’t swim unless it was in private and at night in the dark. And his ribs were hurting. I was ready for him to be out of binders and comfortable.” Regarding the outcome of the surgery, Sam recounts, “Wearing a shirt for the first time after surgery was a sensation like none I’d experienced before. For me it was like the affirmation that this was absolutely right for me and there was no doubt in my mind. I was excited to show off my new body. But just walking around in public

felt so much better. I felt like there were no irrational fears of anyone discovering who I am. It was literally off my chest.”

Tami remembers looking at a pair of photos of Sam that he posted on social media after the surgery: in one he was a freshman in high school, and in the other a freshman in college. “The difference between the two is striking,” she says. “In the first, he’s hunched over, hiding who he is. In the second, his shoulders are back and he is proud and comfortable in his body. When I saw that, I thought to myself, he’s finally settled.” Tami explains that it is a common misconception that transgender people must consign themselves to live on the fringes of society. “I know that to be completely false. Trans people are valuable members of society in all walks of life. With Sam’s transition I’ve had the gift of really growing, and understanding, and changing a lot of those misconceptions.”

Today, Sam’s dream is to work as a professional artist. His artwork in ceramics reflects his identity and what he has learned and experienced through his gender transition: “A lot of the work I did for my senior show was about my identity and how my family accepted me and took me in. It’s about my family’s acceptance of me and what it means to live my life, what it means to be a man.”

### **C. Sebastian Randolph – Renton, Washington**

Sebastian Randolph is an avid musician. He is proficient at bass, drums, and cello, but his “go-to” instrument is guitar. Raised in Renton, Washington, on the

outskirts of Seattle, Sebastian grew up with one younger sibling and three older siblings in the home of his mother Lara, an office manager, and father Steve, an employee at a lighting supply company. Since he was a child, he has enjoyed spending his time composing and playing songs and writing poetry, stories, and “anything else that allows me to express myself creatively.”

Sebastian first realized his gender identity did not match the female sex he was assigned at birth when he started going through puberty and his body started to change. He began experiencing a sense of profound discomfort and distress that prompted him to embark on a period of deep reflection to try to better understand his gender identity. He also made changes to align his appearance with his identity and started wearing his father’s old clothes. Through this process, he came to understand his male gender identity, and at twelve, he began using the name Sebastian and male pronouns.

Sebastian’s parents respected his gender identity but believed he was simply going through a “phase.” It was only a year or so after he changed his name, Sebastian recalls, that his parents “realized that I was their son.” At first, “they didn’t know how to react. I think they were going through a grieving process, feeling as though they had lost their daughter.” Sebastian’s family attended group therapy and, after coming to understand that his gender identity was not a “phase” but rather a persistent reality, and that living openly as male was essential to his well-being and

happiness, his parents and siblings fully supported Sebastian's transition, including hormone replacement therapy. Sebastian says of his family, "Not all kids get that kind of support and I feel truly lucky my parents eventually came around."

Even with his family's support and the positive effects of hormone therapy in changing his outward appearance, Sebastian nevertheless continued to suffer debilitating mental and physical anguish as his body persisted in developing in ways that felt fundamentally at odds with his gender identity. Sebastian concealed his breasts in oversized clothes and began to bind his chest, often wearing two binders or multiple sports bras at once. This binding caused severe health repercussions that plague Sebastian to this day, including reduced lung capacity, poor posture, and back pain. Of his dysphoria and chest binding, Sebastian says,

If I could go back and tell myself not to treat my body that way, I would. But at the time I didn't care because I was so distraught every time I looked in the mirror. I couldn't turn the lights on when I showered because I couldn't bear the idea of looking down and seeing a body I didn't want and couldn't control. It was heart-breaking to know I couldn't do anything about it. I felt alone a lot of the time. It was difficult for a very long time, up until the surgery.

As a result of his distress, Sebastian and his family began to consider top surgery. After his medical providers identified surgery as the only proper treatment for his dysphoria, his parents' health insurance company agreed to cover the surgery. "That's what helped my parents go through with it," Sebastian recalls. "They knew that I would be happy and that they'd be financially OK." Sebastian met with his

surgeon, who put him at ease, telling him she felt fortunate to be able to perform the surgery because it helped people feel more comfortable in their bodies. As the surgery approached, Sebastian was relieved that he would no longer feel the same mismatch between his body and his identity, and he was comforted by his family's support.

Sebastian recalls, "Coming out of anesthesia, I began to lay my hand on my chest. I felt euphoric to feel that it was very flat." He had set aside new clothes before the surgery, and once he healed, he was thrilled to put on his new outfit for the first time and walk outside the house, finally comfortable with how he would be seen by the world. Sebastian says top surgery was "a shocking change. When I first looked at myself in the mirror, it felt strange because my body looked completely different in exactly the ways I wanted it to. I had wanted to be able to walk down the street confident in my gender expression. I can do that now, and it's an amazing feeling. I'm lucky to be able to be in the position that I'm in."

Sebastian is delighted by the enthusiastic reception he has received from the people in his life. "I got mostly positive reactions from everyone. I haven't heard anything negative from friends and family. It's amazing." At seventeen, Sebastian says that because of his top surgery, "I now feel confident in my body. My mental health is better, my relationship with my parents is stronger than it has ever been, and my relationship with myself is great." Sebastian recently began his first job,

working as a barista at Starbucks. He remains active as an author and songwriter, and he plays guitar at every chance he gets. He is enrolled in community college, working towards an Associate Degree. Sebastian says about his future, “I think I might want to be a psychologist when I get older, but I am excited to see where the world will take me.”

**D. Casey Curtis – Tucson, Arizona**

Casey Curtis is a sixteen-year-old young man from Tucson, Arizona, who lives with his sister, his mother Jacquie, who works as a nurse manager in radiation oncology, and his father Ross, who runs an antique furniture business. Casey attends an accelerated high school for academically ambitious students, where he especially loves his history and English classes and participates in the school’s theater program. On weekends Casey enjoys rock climbing, both on indoor climbing walls and outside in Arizona’s rugged landscape.

Casey recalls that “ever since I was really young I had more masculine interests,” and that he began dressing in a traditionally masculine way at around seven years old. Even as a child, he suffered terribly from gender dysphoria, feeling unhappy in his body and experiencing anxiety that people would perceive him as a girl. Casey did not have the vocabulary at that young age to articulate his gender identity, but as he grew older Casey realized that he was a transgender male. Casey came out to his best friend and then to his family at thirteen. He chose the name

Casey, reintroduced himself at school with his new name, and asked to be referred to with male pronouns matching his gender identity. Casey feels fortunate that “every coming out experience was relaxed” and that “people were very supportive and accepting and were pretty quick to pick up on my new pronouns.”

After coming out to his family, Casey also began the physical aspects of his gender transition, meeting with a physician specializing in hormone therapy. For Casey, “the testosterone really helped because I had just started going through female puberty and I did not want that. The testosterone helped me experience the right puberty and helped me fit in with my gender.” But Casey’s body had already begun to develop typically female adult features, and Casey had to bind his chest to make his body more closely match his gender identity. Binding led to physical discomfort, however, as well as to markings on his lower back that persist to this day. Binding also led to uncomfortable and embarrassing interactions, especially when Casey went swimming and joined school camping trips, and even at airports where he would be stopped at security and asked to explain the binding.

Jacque remembers how uncomfortable Casey felt in his body before he had top surgery: “In the middle of the summer Casey would wear a hoodie to hide his chest—even if it was over 100 degrees outside—because he absolutely did not want his breasts to show whatsoever. He also wore a hat to hide himself because of his dysphoric feelings.” For Casey, top surgery “lessened the dysphoria I had and

helped me feel a lot better about myself. It added to my feeling of fitting in with other boys and not having something to worry about all the time. Mainly it's helped me feel like I don't have to hide something about myself to fit in with other people."

Jacquie is delighted that Casey no longer has to bind his chest. She explains:

Now he can swim, wear a T-shirt. Experiences like being stopped at the airport for having a binder on were really traumatizing. Before his surgery, I saw periods when Casey was more withdrawn. He is a very internal kid and it took him a long time to come out to us, but I just saw a new lightness to his personality and a change in how he dressed because he wasn't trying to hide who he was, as he transitioned initially and definitely after the surgery.

Casey says that being able to transition medically and undergo top surgery was "lifesaving." It was especially important for him to be able to transition as a teen. He explains, "If I had waited to get the surgery, I would have experienced a lot more depression and would have been generally unhappy with who I was. If I was unable to transition when I did, I don't know what would have happened." Jacquie is also relieved that the family was able to help Casey undergo top surgery when they did. She is certain that delaying the procedure would have caused psychological torment.

Casey and Jacquie feel that Casey's surgery came just at the right time. "If a child has to wait for the surgery," Jacquie says, "that only results in increased anxiety, depression, and trauma for the child. My son is a healthy, well-adjusted

young man because he was able to have top surgery. I hate to think of what the alternative might have been if he had been unable to obtain the treatment.”

Casey recently began driving lessons. He recalls, “I couldn’t believe it when I got my documents. I just got my learner’s permit and seeing it reflect me is really nice.” Casey’s treatment finally allowed him to see himself as the young man he knew himself to be, rather than as a stranger.

#### **E. Bobby Jones – Kirkland, Washington**

For Bobby Jones, an eighth grader from Kirkland, Washington who spends most of his free time outside playing team sports, soccer is his greatest passion. It has also been a crucible for his transition to living openly as male and for acceptance of his male gender identity by others. Bobby’s mother Eleanor, an elementary school teacher, and father Dakota, an employee of a video game development company, adopted Bobby and his brother Hudson at birth.

Beginning in the third grade, Bobby began to realize that his gender identity did not match his female body. He recalls that once a week he would tell his mom that he “wanted to be a boy,” expressing a “gut feeling” that predated his understanding of what it even meant to be transgender. Bobby’s mom agrees Bobby was always more comfortable with male friends and in traditionally masculine clothes. Bobby precisely recalls the date—June 2, 2020—that he disclosed to his family his male gender identity. With his family’s support, he chose the name

Bobby. And he began to treat his gender dysphoria, beginning with a chest binder. Though at first the binder seemed to slightly ease the more serious feelings of dysphoria, it was also hot and uncomfortable, leaving Bobby feeling “grimy and disgusting” in his day-to-day life and inhibiting his athletic pursuits.



*From left to right: Bobby, Eleanor, Dakota, and Hudson*

What is more, the benefits of the chest binder proved illusory. Bobby’s dysphoria became “extremely difficult to handle,” making the mere act of being in public challenging. Bobby’s mom noticed that he stayed in his room for increasingly longer periods and spent less time socializing with family and friends. The discomfort culminated when Bobby experienced a severe anxiety attack—Eleanor

recalls Bobby “rocking back and forth in his room, crying, and overcome with anxiety, worry, and fear. I, as his mother, had never seen him like this in the thirteen years of his life.” This was the event that “really shifted the trajectory” for Bobby and his parents.

It had become clear that top surgery, which the family had discussed before as an option, was an urgent medical need. As Bobby remembers, surgery was, in his view, simply a matter of survival. Bobby’s mom agrees:

We were aware of the argument that kids can wait, and we had folks say to us, he’s so young, maybe this is a phase? But we knew that our son’s life was on the line. If he needed any other lifesaving surgery like a heart transplant, we wouldn’t sit back and say we’re not really sure this is the time to do it. It was critically important that he have the surgery done as soon as possible. . . . His life was in the balance and we were unwilling to take the risk of losing our child if there were options we could explore.

Eleanor recalls being relieved and grateful that when she called the specialist, they had an opening the very next day for a consultation. And despite initially rejecting coverage of the surgery, the family’s insurance reconsidered at the urging of multiple medical professionals.

Bobby was scheduled for surgery in December 2020; as Bobby puts it, it was “the best Christmas gift ever.” With the surgery approaching, Bobby was “excited with joy.” After the surgery, Bobby remembers nearly “pass[ing] out with relief” when the nurse removed his chest bandaging for the first time. For Eleanor, any

lingering apprehension was short-lived: before the surgery, she had wondered, “[W]ould this look like Bobby? But my word,” after the treatment, “he looked more like Bobby than he ever had in his entire life.” The hardest thing for Bobby post-surgery, she recalls, was that he couldn’t play soccer for six weeks while he recovered.

In the wake of his treatment, Eleanor says, Bobby has “found himself, he found his voice, and now we all get to live with the pleasure and beauty of hearing his voice.” Bobby can run free on the soccer field, no longer having to slouch over to hide his body. His confidence also helps him to “use his voice to help others.” Bobby currently works with an organization advocating for equality and the rights of transgender youth. He hopes to get involved with high-profile athletics companies to pursue his passions and advocacy. In the meantime, he continues to fight for the rights of transgender people by sharing his story and engaging in advocacy in his local community.

## CONCLUSION

On behalf of the transgender youth who have experienced affirming, effective top surgery treatment for their gender dysphoria, *amici* urge this Court to reverse the decision of the district court.

Dated: May 21, 2021

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FOR THE NINTH CIRCUIT  
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### **CERTIFICATE OF SERVICE**

I, Catherine Galan, hereby certify pursuant to Ninth Circuit Rule 25-5(f) that I electronically filed the foregoing Brief of Transgender Youth Support Organizations as *Amici Curiae* with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 21, 2021.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Date: May 21, 2021

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