

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

L.E., by his next friends and parents,
SHELLEY ESQUIVEL and MARIO
ESQUIVEL,

Plaintiff,

v.

BILL LEE, et al.,

Defendants.

Case No. 3:21-cv-00835

Chief Judge Waverly D. Crenshaw Jr.
Magistrate Judge Alistair E. Newbern

DECLARATION OF STELLA YARBROUGH

I, Stella Yarbrough, am an attorney for Plaintiff L.E., by his next friends and parents, Shelley Esquivel and Mario Esquivel, in the above-captioned matter. I submit, pursuant to 28 U.S.C. §1746, this declaration in support of L.E.'s motion for summary judgment. I have personal knowledge of the facts in this declaration. If called upon to testify, I could competently testify to the matters set forth in this declaration.

Attached to this declaration are true and accurate copies of the below items. Where applicable, the numbered paragraph for a particular item indicates that the item has been excerpted. Sensitive, protected, and/or irrelevant information has been redacted on certain pages of the attached exhibits in accordance with Federal Rule of Civil Procedure 5.2(a) and the Protective Order previously entered in this case, Dkt. 30. Where applicable, black boxes have been placed over the redacted text.

1. A true and accurate copy of the Declaration of L.E., dated October 6, 2022, is attached as Exhibit 1 to this Declaration.

2. A true and accurate copy of excerpts of the transcript of the Deposition of L.E., dated August 1, 2022, is attached as Exhibit 2 to this Declaration.

3. A true and accurate copy of excerpts of the transcript of the Deposition of Shelley Esquivel, dated August 1, 2022, is attached as Exhibit 3 to this Declaration.

4. A true and accurate copy of excerpts of the transcript of the Deposition of Mario Esquivel, dated August 2, 2022, is attached as Exhibit 4 to this Declaration.

5. A true and accurate copy of excerpts of the transcript of the Deposition of Dr. Penny Schwinn, dated August 3, 2022, is attached as Exhibit 5 to this Declaration.

6. A true and accurate copy of excerpts of the transcript of the Deposition of Dr. Sara Heyburn Morrison, Rule 30(b)(6) designee for the Tennessee State Board of Education, dated August 22, 2022, is attached as Exhibit 6 to this Declaration.

7. A true and accurate copy of excerpts of the transcript of the Deposition of Jennifer Hemmelgarn, Rule 30(b)(6) designee for the Knox County Board of Education, dated July 29, 2022, is attached as Exhibit 7 to this Declaration.

8. A true and accurate copy of excerpts of the transcript of the Deposition of John Bartlett, dated July 25, 2022, is attached as Exhibit 8 to this Declaration.

9. A true and accurate copy of excerpts of the transcript of the Deposition of Jonathan Higgins, dated July 25, 2022, is attached as Exhibit 9 to this Declaration.

10. A true and accurate copy of excerpts of the transcript of the Deposition of Donald Dodgen, dated July 28, 2022, is attached as Exhibit 10 to this Declaration.

11. A true and accurate copy of the Declaration of Mark Reeves, dated July 13, 2022, is attached as Exhibit 11 to this Declaration.

12. A true and accurate copy of the Declaration of Samuel Steinbrugge, dated October 4, 2022, is attached as Exhibit 12 to this Declaration.

13. A true and accurate copy of the Response of Defendants Knox County Board of Education a/k/a Knox County Schools a/k/a Knox County School District, and Robert M. “Bob” Thomas (Nos. 1 – 25) Responses to Plaintiff’s First Set of Requests for Admission, dated July 28, 2022, is attached as Exhibit 13 to this Declaration.

14. A true and accurate copy of the Response of the Tennessee State Board of Education to Plaintiff’s First Set of Interrogatories (Nos. 1 – 8), dated May 13, 2022, is attached as Exhibit 14 to this Declaration.

15. A true and accurate copy of the Response of Dr. Penny Schwinn, Commissioner, Tennessee Department of Education, to Plaintiff’s First Set of Interrogatories (Nos. 1 – 8), dated May 13, 2022, is attached as Exhibit 15 to this Declaration.

16. A true and accurate copy of Plaintiff’s Responses to Defendants Penny Schwinn, Sara Heyburn Morrison, and the Tennessee State Board of Education’s Second Set of Interrogatories, dated July 25, 2022, is attached as Exhibit 16 to this Declaration.

17. A true and accurate copy of Plaintiff’s Responses to Defendant Knox County Board of Education’s First Set of Interrogatories, dated July 13, 2022, is attached as Exhibit 17 to this Declaration.

18. A true and accurate copy of the Expert Report of Dr. Melissa A. Cyperski, dated April 15, 2022, is attached as Exhibit 18 to this Declaration.

19. A true and accurate copy of the Expert Report of Helen Carroll, dated April 15, 2022, is attached as Exhibit 19 to this Declaration.

20. A true and accurate copy of the Declaration of Gregory A. Brown, PhD., FACSM, dated May 24, 2022, is attached as Exhibit 20 to this Declaration.

21. A true and accurate copy of the Declaration of Dr. Chad T. Carlson, M.D., FACSM, dated May 25, 2022, is attached as Exhibit 21 to this Declaration.

22. A true and accurate copy of excerpts of the transcript of the Deposition of Dr. Gregory Brown, dated September 7, 2022, is attached as Exhibit 22 to this Declaration.

23. A true and accurate copy of excerpts of the transcript of the Deposition of Dr. Chad Carlson, dated August 11, 2022, is attached as Exhibit 23 to this Declaration.

24. A true and accurate copy of 2021 Tennessee Laws Pub. Ch. 40 (HB 3/SB 228) is attached as Exhibit 24 to this Declaration.

25. A true and accurate copy of 2021 Tennessee Laws Pub. Ch. 909 (HB 1895/SB 1861) is attached as Exhibit 25 to this Declaration.

26. A true and accurate copy of 2021 Tennessee Laws Pub. Ch. 460 is attached as Exhibit 26 to this Declaration.

27. A true and accurate copy of 2021 Tennessee Laws Pub. Ch. 452 is attached as Exhibit 27 to this Declaration.

28. A true and accurate copy of 2021 Tennessee Laws Pub. Ch. 281 is attached as Exhibit 28 to this Declaration.

29. A true and accurate copy of Tennessee State Board of Education Rule 0520-01-23 is attached as Exhibit 29 to this Declaration.

30. A true and accurate copy of the Tennessee Secondary School Athletic Association (“TSSAA”) Handbook, introduced as Exhibit 3 to the Deposition of Donald Dodgen, is attached as Exhibit 30 to this Declaration.

31. A true and accurate copy of the Knox County Board of Education Policy I-171: Interscholastic Athletics, produced as part of the Response of Knox County Board of Education a/k/a Knox County Schools a/k/a Knox County School District and Robert M. “Bob” Thomas (Nos. 1-14) to Plaintiff’s First Set of Requests for Production of Documents, is attached as Exhibit 31 to this Declaration.

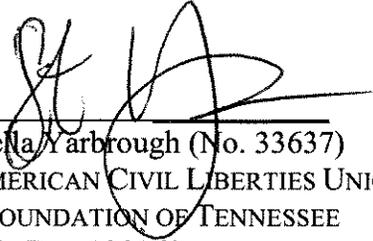
32. A true and accurate copy of the TSSAA/TMSAA Transgender Policy, produced as part of the Response of Knox County Board of Education a/k/a Knox County Schools a/k/a Knox County School District and Robert M. “Bob” Thomas (Nos. 1-14) to Plaintiff’s First Set of Requests for Production of Documents, is attached as Exhibit 32 to this Declaration.

33. A true and accurate copy of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (“DSM-V”) (5th ed. 2013) chapter on “Gender Dysphoria,” *available at* <https://tinyurl.com/jp2453k7>, is attached as Exhibit 33 to this Declaration.

34. A true and accurate copy of Henry Berg-Brousseau, *ICYMI: As Lawmakers Escalate Attacks on Transgender Youth Across the Country, Some GOP Leaders Stand Up for Transgender Youth*, Human Rights Campaign (Mar. 24, 2022), *available at* <https://tinyurl.com/392wcmxz>, is attached as Exhibit 34 to this Declaration.

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

Executed on October 7, 2022



Stella Yarbrough (No. 33637)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF TENNESSEE
P.O. Box 120160
Nashville, TN 37212
Tel: (615) 320-7142
syarbrough@aclu-tn.org