

IN THE UNITED STATES DISTRICT COURT
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 JESSICA JERNIGAN-JOHNSON

Pursuant to 28 U.S.C. § 1746, I, Jessica Jernigan-Johnson, hereby declare under penalty of perjury that the following is true and correct:

1. I am over 18 years of age and have direct knowledge of the matters stated herein.
2. Defendants Knox County Board of Education and Superintended Jon Rysewyk, in his official capacity, rely on the attached exhibits in support of their Response in Opposition to Plaintiff's Motion for Summary Judgment filed in this matter.
3. Exhibit 1 is a true and correct copy of excerpts of the deposition of Jennifer Hemmelgarn, KCBOE's 30(b)(6) witness, dated July 29, 2022.
4. I have personal knowledge of the facts in this declaration and, if called to testify, could completely do that.

Dated this 4th day of November, 2022.

s/Jessica Jernigan-Johnson

DAVID M. SANDERS (BPR # 016885)

Senior Deputy Law Director

JESSICA JERNIGAN-JOHNSON (BPR #
032192)

Deputy Law Director

Suite 612, City-County Building

400 Main Street

Knoxville, TN 37902

(865) 215-2327

*Counsel for Defendants, Knox County
Board of Education, Knox County Schools
and Dr. Jon Rysewyk*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on the date recorded by the Court's electronic filing system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties who have filed an appearance in the case, by and through the following counsel:

Sasha Buchert
LAMBDA LEGAL DEFENSE AND EDUCATION
FUND INC.
1776 K Street NW, 8th Floor
Washington, DC 20006-5500
Tel: (202) 804-6245
sbuchert@lambdalegal.org

Stella Yarbrough
Lucas Cameron-Vaughn
Thomas H. Castelli
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF TENNESSEE
P.O. Box 120160
Nashville, TN 37212
Tel: (615) 320-7142
syarbrough@aclu-tn.org
lucas@aclu-tn.org
tcastelli@gmail.com

Leslie Cooper
L. Nowlin-Sohl
Meredith Taylor Brown
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad St.
New York, NY 10004
Tel: (212) 549-2584
lcooper@aclu.org
lnowlin-sohl@aclu.org
tbrown@aclu.org

Tara L. Borelli (*pro hac vice*)
Carl S. Charles (*pro hac vice*)
LAMBDA LEGAL DEFENSE AND EDUCATION
FUND INC.
1 West Court Square, Suite 105
Decatur, GA 30030-2556
Tel: (404) 897-1880
Fax: (404) 506-9320
tborelli@lambdalegal.org
ccharles@lambdalegal.org

Jennifer Milici
John W. O'Toole
Wilmer, Cutler & Pickering Hale and Dorr,
LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6256
jennifer.milici@wilmerhale.com
john.o'toole@wilmerhale.com

Clark Lassiter Hildabrand
Stephanie A. Bergmeyer
Tennessee Attorney General's Office
P.O. Box 20207
Nashville, TN 37202-0207
(615) 741-6828
clark.hildabrand@ag.tn.gov
stephanie.bergmeyer@ag.tn.gov

Alan Schoenfeld
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street, 45th Floor
New York, NY 10007
Tel: (212) 937-7294
alan.schoenfeld@wilmerhale.com

Matthew D. Benedetto
Thomas F. Costello-Vega
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 South Grand Avenue, Suite 2400
Los Angeles, CA 90071
Tel: (213) 443-5300
matthew.benedetto@wilmerhale.com
thomas.costello@wilmerhale.com

Emily L. Stark (*pro hac vice*)
Samuel M. Strongin (*pro hac vice*)
Britany Riley-Swanbeck (*pro hac vice*)
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Ave. NW
Washington, DC 20006
Tel: (202) 663-6000
emily.stark@wilmerhale.com
samuel.strongin@wilmerhale.com
britany.riley-swanbeck@wilmerhale.com

s/Jessica Jernigan-Johnson
JESSICA JERNIGAN-JOHNSON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

IN THE UNITED STATES DISTRICT COURT
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

VIDEOCONFERENCE DEPOSITION OF
JENNIFER HEMMELGARN

DATE: Friday, July 29, 2022
TIME: 9:33 a.m. CDT/10:33 a.m. EDT
LOCATION: Remote Proceeding
Washington, DC 20005
REPORTED BY: Janel Folsom, Notary Public
JOB NO.: 5335467

1 form.

2 MS. BERGMEYER: Same objection.

3 A That was a long question. Can you say that
4 again?

5 Q Sure. So if a -- so are schools under Knox
6 County Schools' jurisdiction able to roster a student
7 athlete on a sex-separated sports team on the team
8 that aligns with that student's gender identity if
9 that gender identity is different from the sex
10 assigned at birth on the student's original birth
11 certificate?

12 MS. JERNIGAN-JOHNSON: Object to the
13 form.

14 MS. BERGMEYER: Same objection.

15 A Knox County Schools -- schools under Knox
16 County Schools' jurisdiction are only allowed to
17 roster students on gender-specific sports team whose
18 gender assigned on the original birth certificate
19 matches that gender sports team.

20 Q Okay. And what steps or actions does Knox
21 County Schools take to ensure that individual schools
22 are complying with I-171?

1 MS. JERNIGAN-JOHNSON: Object to the
2 form.

3 MS. BERGMEYER: Same objection.

4 A Informing school principals, athletic
5 directors, and then athletic directors informing their
6 coaching staff that the policy and state law exist.

7 Q Are there any additional steps that Knox
8 County Schools takes?

9 MS. JERNIGAN-JOHNSON: Object to the
10 form.

11 A I can't think of any right now.

12 Q Okay. And are students required to submit
13 an original birth certificate to participate in
14 interscholastic athletics?

15 A Students are required to submit a birth
16 certificate at some point during the enrollment
17 process, enrollment into Knox County Schools.

18 Q And then is that the only time they are
19 required to submit a birth certificate?

20 A I do not know. I do not know if -- if there
21 are -- would be a birth certificate required at
22 a -- during enrollment in a different school, for

1 form.

2 MS. BERGMEYER: Same objection.

3 A No, other than -- I don't know all the
4 details other than potentially the exhibit you showed
5 earlier with regard to L&N STEM Academy.

6 Q Okay. And other than the plaintiff in this
7 case, is Knox County Schools aware of any transgender
8 student who would have attempted to participate on an
9 interscholastic athletics team that aligned with that
10 student's gender identity but refrained from doing so
11 because of SB 228?

12 MS. JERNIGAN-JOHNSON: Object to the
13 form.

14 MS. BERGMEYER: Same objection.

15 A Can you say that again, please?

16 Q Sure. Other than the plaintiff in this
17 case, is Knox County Schools aware of any transgender
18 student who would have tried out to participate on an
19 interscholastic athletic team that aligned with that
20 student's gender identity but did not go through with
21 that attempt because of SB 228?

22 MS. JERNIGAN-JOHNSON: Object to the

1 form.

2 MS. BERGMEYER: Same objection.

3 A Knox County Schools is not aware of any
4 student that would have tried out for a gender-
5 specific sports team that is not aligned with their
6 gender assigned on their original birth certificate
7 that did not do so as a result of this change in law,
8 if that is what you are asking.

9 Q That was, thank you.

10 A Okay.

11 MR. STRONGIN: So I am done with that
12 line of questioning, which was only 15 minutes. Do we
13 want to go for another 15 minutes? I might be able to
14 get the next line in the next 15 minutes. If I don't,
15 it won't be much longer than that, I wouldn't expect,
16 or if we want to take the lunchbreak now. I am happy
17 to go either way, to defer to everyone else.

18 MS. JERNIGAN-JOHNSON: Yeah, we can
19 go -- can we just -- when you say 15 minutes, go 15
20 minutes?

21 MR. STRONGIN: Yeah. That sounds
22 great.