IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
NO. 22-1786

A.C., a minor child by his next friend, mother and legal guardian, M.C., Plaintiff-Appellee, v. METROPOLITAN SCHOOL DISTRICT OF MARTINSVILLE, and PRINCIPAL, JOHN R. WOODEN MIDDLE SCHOOL, in his official capacity, Defendants-Appellants.	Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division Case No. 1:21-cv-2965-TWP-MPB Honorable Tanya Walton Pratt, Chief Judge.

APPELLANTS' MEMORANDUM IN RESPONSE TO COURT ORDER ON FEDERAL RULE OF CIVIL PROCEDURE 65

Appellants Metropolitan School District of Martinsville and Principal of John R. Wooden Middle School submit the following memorandum in response to the Court's Order (Docket No. 2) issued on May 4, 2022, asking the parties to state why they "should not return to the district court to seek and obtain an injunction order that complies with the requirement of Fed. R. Civ. P. 65 (d)(1)(C)." This Court should not remand the parties to the district court because the order being appealed satisfies the written requirements of Rule 65(d), as it states the reasons why it is issued, states its terms specifically, and describes the acts being restrained in reasonable detail. Appellants should be allowed to obtain appellate relief from the order without further delay.

While this Court has interpreted Federal Rule of Civil Procedure 65(d)(1)(C) to require "that an injunction must be embodied in a standalone separate document," it has also recognized that the district court's failure to create a separate, standalone document does not always require remand. *Auto Driveaway Franchise Sys., LLC v. Auto Driveaway Richmond, LLC*, 928 F.3d 670, 676-77 (7th Cir. 2019). Instead, this Court has jurisdiction over and "may review those injunctions that contain enough content to permit effective enforcement." *Id.* at 677. Thus, technical violations of Rule 65(d) can be overcome where an order passes the "specificity test"—making "the practical effect of the order" clear. *Id.* The purpose of Rule 65(d) is to protect the party against whom an injunction is issued by assuring the party receive clear notice as to what it must do or refrain from doing. *Id.* at 678. Where such clarity is present, the party who is enjoined has a right to appellate review and the "glitch" of "[m]issing only the self-contained document" is not enough to require a remand to cure the Rule 65(d) defect, which would delay the party of its right to appellate review. *Id.* at 678-79.

Here, the district court order appealed from satisfies the specificity test and all aspects of Rule 65(d) (save for the self-contained document rule), and it has the practical effect of a preliminary injunction. Therefore, just as this Court recognized in *Auto Driveaway Franchise Systems, LLC*, remand is unnecessary.

First, in accordance with Rule 65(d)(1)(A), the order provides the reasoning why it was issued. The order discusses and analyzes the background facts and parties' arguments on the motion for preliminary injunction. It then concludes that

"[t]he overwhelming majority of federal courts—including the Court of Appeals for the Seventh Circuit—have recently examined transgender education-discrimination claims under Title IX and concluded that preventing a transgender student from using a school restroom consistent with the student's gender identity violates Title IX. This Court concurs." (Filing 50 at 15.)

Second, the order states the terms of the injunction specifically and describes in reasonable detail the act or acts restrained or required, as required by Rule 65(d)(1)(B) and 65(d)(1)(C). Specifically, the order states plainly that "The School District shall permit A.C. to use any boys' restroom within John R. Middle School," and concludes the order with the words, "**SO ORDERED**." (Filing 50 at 15.) This is markedly different from those cases remanding for clarification. *Cf. Quincy Biosciene, LLC v. Ellishbooks*, 957 F.3d 725, 728 n.17 (7th Cir. 2020) (noting limited remand of case "to describe the acts being restrained in reasonable detail"); *MillerCoors LLC v. Anheuser-Busch Cos.*, LLC, 940 F.3d 922, (7th Cir. 2019) (per curiam) (noting limited remand where both sides acknowledged district court's failure to comply with Rule 65(d) and district court made subsequent modifications to decision being appealed).

Third and finally, the practical effect of the order is that it grants A.C.'s prayer for injunctive relief and imposes specific behavior on Appellants by force of law, placing Appellants at risk of contempt or sanction for violation of the order. This qualifies Appellants for the right to pursue appellate review on the merits and without delay. *See Auto Driveaway Franchise Sys., LLC*, 928 F.3d at 678-79. In

other words, the order the School District appeals from here is on all fours with the one appealed in *Auto Driveaway Franchise Systems, LLC*. *See also MillerCoors, LLC*, 940 F.3d at 930 (Hamilton, J., dissenting) (noting remand in such a circumstance would cause "[w]heels [to] spin for no practical purpose" (citation omitted)).

Accordingly, because all aspects of Rule 65(d) are satisfied, and the order has sufficiently clear content to make it enforceable against Appellants, this Court should not remand. Appellants respectfully ask the Court to permit them to pursue this appeal without this additional procedural step.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2022, a copy of the foregoing "Appellants' Memorandum in Response to Court Order on Federal Rule of Civil Procedure 65" was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

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