



February 5, 2024

Office of the Clerk
U.S. Court of Appeals for the Seventh Circuit
219 S. Dearborn St., Rm. 2722
Chicago, Illinois 60604

Re: *K.C., et al. v. Individual Members of Med. Licensing Bd. of Ind., et al.*
No. 23-2366; Rule 28(j) Notice

Dear Clerk:

This appeal concerns whether the district court properly issued a preliminary injunction against the enforcement of Indiana Senate Enrolled Act 480 (2023), which generally prohibits the provision of certain forms of gender-affirming care to Hoosier minors diagnosed with gender dysphoria. Oral argument is scheduled for February 16, 2024. Pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure, I write to inform the Court of the supplemental authority of *Poe v. Labrador*, No. 1:23-cv-000269-BLW, 2023 WL 8935065 (D. Idaho Dec. 26, 2023), *appeal pending*, No. 24-142 (9th Cir. 2024).

In *Poe*, the court granted a preliminary injunction against a statute that also prohibits gender affirming medical interventions to treat gender dysphoria in adolescents. *Id.* at *2. In *Poe*, the court issued its preliminary injunction based on documentary evidentiary submissions, primarily consisting of depositions and expert declarations. *Id.* at *3. The court's decision supports the district court's conclusions in this case that the plaintiffs have a likelihood of success in their claims that the challenged Indiana law (1) represents sex discrimination and fails the heightened scrutiny demanded by equal protection, *id.* at *11-*15, and (2) violates parents' fundamental right, protected by due process, to direct their children's medical care, *id.* at *15-*18. These points were argued in appellees' brief at pages 23-40 and 41-44, respectively. The court in *Poe*, as in the case at bar, found that a statewide preliminary injunction was appropriate. 2023 WL 8935065 at *18-*19. This point was argued at pages 48-50 of appellees' brief.

On January 30, 2024, the Ninth Circuit denied the defendants' motion to stay the district court's order and the December 26, 2023 injunction therefore remains in effect pending appeal. *Poe v. Labrador*, No. 24-142, Dkt. No. 24 (9th Cir. Jan. 30, 2024).

Thank you very much.

Very truly yours,



Kenneth J. Falk
Attorney at Law

Cc: Counsel of record (via CM/ECF)