

Akilah Deernose  
Alex Rate  
**ACLU of Montana**  
P.O. Box 1968  
Missoula, MT 59806 | 406-203-3375  
deernosea@aclumontana.org  
ratea@aclumontana.org

Elizabeth O. Gill\*  
Malita Picasso\*  
Arijeet Sensharma\*  
**ACLU Foundation**  
125 Broad Street  
New York, NY 10004 | 212-549-2561  
egill@aclunc.org  
mpicasso@aclu.org  
asensharma@aclu.org

Matthew P. Gordon  
**Perkins Coie LLP**  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101 | 206-359-8000  
mgordon@perkinscoie.com

Peter C. Renn\*  
Kell Olson\*  
Christina S. Paek\*  
**Lambda Legal Defense and Education  
Fund**  
800 S. Figueroa Street, Suite 1260  
Los Angeles, CA 90017 |  
213-382-7600  
prens@lambdalegal.org  
kolson@lambdalegal.org  
cpaek@lambdalegal.org

Nora Huppert\*  
65 E. Wacker Place, Suite 2000  
Chicago, IL 60601 | 312-663-4413  
nhuppert@lambdalegal.org

\*subject to pro hac vice admission

**IN THE FOURTH JUDICIAL DISTRICT COURT  
MISSOULA COUNTY**

**VAN GARDEREN, et. al.** )  
 )  
 **Plaintiffs,** )  
 )  
 v. )  
 )  
 **STATE OF MONTANA, et. al.** )  
 )  
 **Defendants.** )

**Case No.: DV-23-541**  
**Judge: Hon. Jason Marks**

**DECLARATION OF PAUL CROSS**

I, Paul Cross, hereby declare as follows:

1. I am a Plaintiff in this action. I offer this Declaration in support of Plaintiffs' Motion for a Preliminary Injunction. I have personal knowledge of the facts set forth in this Declaration and could and would testify competently to those facts if called as a witness.

2. My wife Molly and I live in Bozeman, Montana, and we are the parents of Phoebe Cross, a fifteen-year-old who recently completed his first year in high school. Phoebe is transgender. When Phoebe was born, he was designated as female on his birth certificate, but his gender identity is male.

3. Throughout most of his childhood, Phoebe expressed his gender identity in a typically masculine manner. For example, Phoebe always expressed a strong desire to wear whatever clothing was popular for the masculine boys in his class, like sweatpants and basketball shorts.

4. At the time, I interpreted Phoebe's choices as simply reflecting his interests in sports. In retrospect, because it is socially acceptable for young girls to dress in a traditionally masculine way, it was harder for Phoebe's mother and I to realize at that point that Phoebe was feeling uncomfortable about his gender.

5. During Phoebe's upper elementary school years and into the start of middle school (6th grade), he began to experience some body changes due to puberty. In the fall of 7th grade, Phoebe began to show secondary signs of

anxiety and declining mental health, such as near-constant nausea; a lack of appetite and inability to eat; and acting more reserved, worried, or stressed than usual.

6. I noticed Phoebe's intense and worsening mental health challenges throughout Phoebe's seventh and eighth grade years. During this time period, Molly and I witnessed Phoebe's deteriorating mental health condition, expressed through suicidal ideations, attempts, and gestures. I was extremely worried about Phoebe during this time, and often talked with Molly about our worries and how to help Phoebe. I wanted to help Phoebe. As Phoebe's parents, we arranged for Phoebe to receive mental health and psychiatric care to address these challenges.

7. In the fall of Phoebe's eighth grade school year, Phoebe came out to me and Molly as transgender and began socially transitioning. He cut his hair short, returned to wearing traditionally masculine clothing (as he had done throughout his younger years), and began wearing a chest binder.

8. I noticed a marked improvement in Phoebe's health after he began socially transitioning. Nonetheless, despite the improvements we saw in Phoebe's mental health, he suffered an acute mental health crisis in January 2022, resulting in the need for emergency medical treatment. Following this incident, Phoebe began asking about other ways to better align his body with a male gender,



including options to prevent menstruation and the potential of starting hormone replacement therapy.

9. In May 2022, Phoebe had his first appointment with a Board-Certified Family Nurse Practitioner and Advanced Practice Registered Nurse (APRN), licensed by the Montana Board of Nursing, with expertise in gender-affirming care where we discussed the potential of Phoebe starting hormone replacement therapy. The APRN gave Molly and me information and resources to consider, and we scheduled follow up appointments.

10. In July 2022, Phoebe began seeing a therapist with expertise in treating gender-diverse individuals; after a number of visits, that therapist diagnosed Phoebe with gender dysphoria.

11. I was accepting of Phoebe's transgender male identity. I was not surprised by Phoebe's diagnosis, as Phoebe had been talking about being transgender for some time, but I was not familiar with the science and care related to a gender dysphoria diagnosis.

12. As a scientist, when I am presented with a new concept, my natural inclination is to conduct as much research as I can, to gain understanding and familiarity with the new subject matter. I, in collaboration with Phoebe's mother, Molly, explored options for gender-affirming care, reviewed scientific publications on gender dysphoria and its treatments, consulted resources such as

the World Professional Association for Transgender Health Standards of Care, and generally sought out more information on gender dysphoria. Phoebe's Nurse Practitioner provided us with several scientific publications on the low rates of regret that are associated with gender-affirming care, and I subsequently continued reading on the subject; for example, I accessed reviews, such as the one conducted by researchers at Cornell University: What We Know Project, Cornell University, "What Does the Scholarly Research Say about the Effect of Gender Transition on Transgender Well-Being?" (online literature review, 2018). I observed Molly review these materials as well and would discuss the information with her.

13. After reviewing this research, Molly and I, in collaboration with Phoebe and his treating medical and mental health professionals, determined that gender-affirming care, including testosterone, was the correct course of care for him to treat his gender dysphoria.

14. In September 2022, Phoebe was prescribed and began taking testosterone to treat his gender dysphoria.

15. As a parent, I have witnessed numerous positive changes in Phoebe since he has been able to access gender-affirming care, including that he is clearly more comfortable with and accepting of his appearance. His depression has significantly abated and he has not experienced any acute mental health challenges since starting testosterone. I have witnessed immense growth in his confidence. I

have seen that our child has hope for his future in a way that he did not before he received gender-affirming care. I have felt such relief watching my child's depression subside and confidence grow because of his gender-affirming care.

16. I was not surprised when we learned that the Montana State Legislature was debating, and eventually passed, SB 99 since I knew that there were representatives and senators in Montana that wanted to limit the rights of families like ours to access these important and often necessary treatments. This law makes me worried and angry: worried that if the law goes into effect, Phoebe will no longer be able to access care that has been beneficial in reducing his gender dysphoria, and angry that politicians would take away our family's right to access safe, science-based medical treatments.

17. If SB 99 goes into effect, Phoebe's gender-affirming care from his Montana providers will discontinue. I am extremely concerned about the potentially devastating impacts on Phoebe if his gender-affirming care is taken away from him. I fear that his mental health will erode and he could slip back into a state of depression, possibly even leading to self-harm. I witnessed this kind of acute depression before he accessed gender-affirming care.

18. Bozeman is our home and we do not wish to leave, but our family would do so if Phoebe's medically necessary care is taken away and if we, as parents, are not allowed to make decisions about his care in conjunction with

Phoebe and his providers. Both I and my wife have dedicated our careers to making Montana a better place. I have been working at my dream job for the past 18 years, studying wildlife issues around the Yellowstone ecosystem. My expertise is very specific. I love Montana and feel immersed in the community. My family and I have a supportive friend network with whom we participate in many Montanan activities, including hiking, fishing, rafting, and skiing.

\* \* \*

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

DATED this 12 day of July, 2023.

A handwritten signature in black ink, appearing to read "Paul I. Cross", written over a horizontal line.

Paul Cross



## CERTIFICATE OF SERVICE

I, Akilah Maya Deernose, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit to the following on 07-17-2023:

Austin Miles Knudsen (Govt Attorney)

215 N. Sanders

Helena MT 59620

Representing: Montana Board of Nursing, Gregory Gianforte, Montana Department of Public Health and Human Services, Charlie Brereton, Montana Board of Medical Examiners, State of Montana, Austin Knudsen

Service Method: eService

Alexander H. Rate (Attorney)

713 Loch Leven Drive

Livingston MT 59047

Representing: Katherine Mistretta, Paul Cross, Phoebe Cross, Scarlet van Garderen, Juanita Hodax, Ewout Van Garderen, Molly Cross, Jessica van Garderen

Service Method: eService

Matthew Prairie Gordon (Attorney)

1201 Third Ave

Seattle WA 98101

Representing: Katherine Mistretta, Paul Cross, Juanita Hodax, Ewout Van Garderen, Molly Cross, Jessica van Garderen

Service Method: eService

Electronically signed by Krystel Pickens on behalf of Akilah Maya Deernose

Dated: 07-17-2023