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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

A.C., a minor child by his )  
next friend, mother and )  
legal guardian, M.C., )  
Plaintiff, )  
v. ) No.  
METROPOLITAN SCHOOL ) 1:21-cv-02965-TWP-TAB  
DISTRICT OF )  
MARTINSVILLE, *et al.*, )  
Defendants. )

**Entry Clarifying Preliminary Injunction**

(Filed Aug. 10, 2023)

The parties having filed their Emergency Joint Motion to Clarify Preliminary Injunction, and the Court being duly advised, hereby clarifies the previously issued preliminary injunction (ECF No. 65) as follows.

Defendants the Metropolitan School District of Martinsville and Principal of John R. Wooden Middle School are hereby preliminarily enjoined from stopping, preventing, or in any way interfering with A.C. freely using any boys' restroom located on or within the campus of John R. Wooden Middle School or any other school within the Metropolitan School District of Martinsville.

Furthermore, ECF No. 85 is now moot.

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Date: 8/10/2023

/s/ Tanya Walton Pratt  
Hon. Tanya Walton Pratt,  
Chief Judge  
United States District Court  
Southern District of Indiana

To: All ECF-registered counsel of record

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

A.C., a minor child by his )  
next friend, mother and )  
legal guardian, M.C., )  
Plaintiff, )  
v. ) No.  
METROPOLITAN SCHOOL ) 1:21-cv-02965-TWP-TAB  
DISTRICT OF )  
MARTINSVILLE, *et al.*, )  
Defendants. )

**Emergency Joint Motion to  
Clarify Preliminary Injunction**

(Filed Aug. 9, 2023)

Plaintiff A.C., and Defendant, Metropolitan School District of Martinsville (“District”), by their respective counsel state as follows:

1. This Court granted plaintiff A.C. a preliminary injunction allowing A.C. to use male restrooms within John R. Wooden Middle School, which is a school within the District. (ECF No. 50, ECF No. 65). Specifically, the Court’s Preliminary Injunction (ECF No. 65) states:

Defendants the Metropolitan School District of Martinsville and Principal of John R. Wooden Middle School are hereby preliminarily enjoined from stopping, preventing, or in

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any way interfering with A.C. freely using any boys' restroom located on or within the campus of John R. Wooden Middle School located in Martinsville, Indiana.

2. Defendants appealed the preliminary injunction to the Seventh Circuit Court of Appeals. (No. 22-1786).

3. The Seventh Circuit Court of Appeals issued its decision on August 1, 2023, (*See* No. 22.1786) but has not yet issued its mandate pursuant to Fed.R.App.P. 41(b).

4. The Seventh Circuit's opinion recited the injunction but contained no building-specific limitation: "In December 2021, A.C. filed this lawsuit against Martinsville and Fred Kutruff, Wooden's principal, seeking declaratory and injunctive relief that would assure his access to gender-affirming bathrooms. On April 29, 2022, the district court granted A.C.'s motion for a preliminary injunction and issued the mandatory stand-alone order on May 19, 2022. *See* Fed. R.Civ. P. 65(d). The injunction prohibited Martinsville from 'stopping, preventing, or in any way interfering with A.C. freely using any boys' restroom.'" Slip Op. at 5.

5. The Seventh Circuit's analysis and statutory interpretation also made no distinction between the particular school buildings. *See generally*, Slip Op.

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6. On August 10, 2023, students return to school at the District, and A.C. intends to attend Martinsville High School.

7. On August 8, 2023, A.C. requested to use the boys' restrooms at Martinsville High School.

8. It is the District's intent to comply with the orders from this Court and the Seventh Circuit. The District also desires not to waive its rights by extending to A.C. rights not intended by the Court.

9. The Parties respectfully requests a clarification of the preliminary injunction order regarding its application to A.C.'s use of District restrooms beyond John R. Wooden Middle School.

10. The parties have submitted a proposed entry for the Court's consideration. Defendants do not concede the propriety of the preliminary injunction or any clarification and reserve the right to pursue all remedies to challenge the Court's preliminary injunction.

11. The Parties further state that should the Court grant this Motion as proposed, the need for Court intervention as set forth in the Court's August 9, 2023, entry (ECF No. 85) is moot.

WHEREFORE, the Parties request clarification of the preliminary injunction order regarding its application to A.C.'s use of District restrooms.

*/s/ Kenneth J. Falk* (with  
permission)

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following counsel by operation of the Court's electronic filing system.

*/s/ Jonathan L. Mayes*

Jonathan L. Mayes

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION  
NO. 1:21-cv-02965-TWP-MPB

A.C. )  
 )  
Plaintiff )  
 )  
-vs- )  
 )  
METROPOLITAN SCHOOL )  
DISTRICT OF )  
MARTINSVILLE, et al. )  
 )  
Defendants )

The 30(b)(6) DEPOSITION OF THE DEFENDANTS  
UPON ORAL EXAMINATION OF  
FRED KUTRUFF

(Filed Feb. 1, 2022)

\* \* \*

[3] FRED KUTRUFF, the witness herein,  
having been first duly sworn to tell the truth,  
the whole truth, and nothing but the truth,  
testified as follows:

EXAMINATION,

QUESTIONS BY MR. FALK:

Q. Sir, could you state your name for the court  
reporter, please.

A. Fred Kutruff. K-U-T-R-U-F-F-as-in-Fred.

Q. And you are the principal of the Wooden Middle School, John R. Wooden Middle School in Martinsville, Indiana; is that correct?

A. Yes.

\* \* \*

[4] (Exhibit 1 introduced into the record.)

Q. I'm showing you what's been marked as Exhibit 1 to [5] this deposition. Do have you that before you?

A. Which? I've got –

Q. It's the deposition notice that you would have gotten.

A. Yes.

Q. Okay. And you are the principal of the John R. Wooden School; is that correct?

A. Correct.

Q. And this deposition notice asks that the defendants in this case, that includes the Metropolitan School District and the principal in his official capacity, designate one or more people to answer questions on the topics presented in the deposition. Is that your understanding?

A. Yes.

Q. And you are the person who, as you so eloquently put it, drew the short straw; is that correct?

A. Yes.

Q. Okay. So I'm going to assume that you are testifying not just for yourself, but also the principal in his official capacity, as well as the school district. Is that fair?

A. Yes.

\* \* \*

[15] Q. Well, you say case-by-case basis, so is there a situation where a transgender student could use a bathroom consistent with their current gender identity, even though it's different than their sex at birth?

A. Yes. It would depend. We would want to keep the, depending on the maturity level, to keep transgender students safe, the privacy of other students, but also has there been the diagnosis of [16] gender dysphoria, as you talked about. Are they on hormones, or are they going the other direction? I'm not sure of the legal or how it actually works. Are they taking testosterone? Have they had surgery? Have they legally attempted to change their name through the court system and their gender marker? One of the other circumstances that might play a role, what's the pattern? How many years have they been transitioning?

So we would treat them on a different case-by-case basis. The reason we would do that is based on the safety of the transgender student, the privacy of the other students, and then basically what the courts, the court's guidance in this area.

\* \* \*

[23] Q. Okay. Thank you. Now, are there any transgender students that you're aware of who attend Martinsville schools, be it Wooden or elsewhere, who are allowed to use a bathroom that is consistent with their gender identity but is different than their sex at birth?

A. That's done on a case-by-case basis at building level, so yes.

Q. There are currently students; is that correct?

A. Yes.

Q. And looking at A.C., what would he have to do at this point to be able to use the male restrooms?

A. Going back to what I had stated earlier, it just depends, basically to provide safety for the transgender student, privacy for all students. But if they can prove that, you know, show that they are under a physician or physician's care, they've been diagnosed with gender dysphoria, are they on hormones, testosterone, have they had surgery, in some other circumstances have they filed for a [24] legal name change or gender marker change.

So there's a lot of different circumstances that – we are not saying it can never happen. We are just saying these are some criteria, standards that we'd like to see met. And for us in a middle school, it revolves around maturity of the students and, you know, safety of the students and privacy, and again guidance from the court, other courts in this area.

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Q. Well, you say that there are students, transgender students who are being able to use bathrooms consistent with their current gender identity even though their bathroom is for a sex different than their sex at birth; correct?

A. Correct.

\* \* \*

[29] Q. Okay. But it's your position today, or Martinsville's position today that A.C. does not need surgery in order to be able to access the bathroom, if he satisfies the case-by-case determination; correct?

A. Correct. I was just using that as an example of different things you might present to us. Well, the student might present.

Q. Sure. And that's perfectly fine. I just want to make sure there is no bright line in the district that says A.C. has to have surgery before this can even be considered.

[30] A. No.

Q. And what you've told me is there is no such bright line; correct?

A. Correct.

\* \* \*

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

A.C., a minor child, by his )  
next friend, mother and )  
legal guardian, M.C., )  
Plaintiff, )  
v. ) No. 1:21-cv-2965  
METROPOLITAN SCHOOL )  
DISTRICT OF )  
MARTINSVILLE; PRINCIPAL, )  
JOHN R. WOODEN MIDDLE )  
SCHOOL, in his official capacity, )  
Defendants. )

**Complaint for Declaratory and  
Injunctive Relief and Damages**

(Filed Dec. 3, 2021)

\* \* \*

WHEREFORE, A.C. requests that this Court:

- a. Accept jurisdiction of this case and set it for prompt hearing.
- b. Declare that defendants have violated the plaintiff's rights for the reasons noted above.
- c. Enter a preliminary injunction requiring defendants to allow A.C. to use boys' restrooms and further requiring that A.C. be referred to by school personnel as male, using the pronouns associated with his gender identity.

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- d. Enter a permanent injunction, requiring defendants to allow treat A.C. a boy in all respects, allowing him to use male restrooms and other facilities, and further requiring that A.C. be referred to by school personnel as male, using the pronouns associated with his gender identity and allowing A.C. to participate on the boys' soccer team in the fall of 2022.
  - e. Award plaintiff his damages.
  - f. Award plaintiff his reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.
  - g. Award all other proper relief.
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