

Nos. 24-38 and 24-43

IN THE
Supreme Court of the United States

BRADLEY LITTLE, GOVERNOR OF IDAHO, *et al.*,
Petitioners,

v.

LINDSAY HECOX, *et al.*,
Respondents.

WEST VIRGINIA, *et al.*,
Petitioners,

v.

B. P. J., BY HER NEXT FRIEND AND MOTHER,
HEATHER JACKSON,
Respondent.

ON WRITS OF CERTIORARI TO THE UNITED STATES
COURTS OF APPEALS FOR THE NINTH AND FOURTH CIRCUITS

**BRIEF OF *AMICUS CURIAE*
WOMEN'S LIBERATION FRONT
IN SUPPORT OF PETITIONERS**

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TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	iii
IDENTITY AND INTEREST OF AMICUS BRIEF.....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	2
I. Respondent B.P.J., a male, is accused of threatening his female teammates with rape	5
II. Trans identifying males have sexually intimidated, assaulted, and raped women in women’s only spaces, including sororities, spas, and prisons.....	12
A. Artemis Langford: A trans-identified male is accused of sexually intimidating female sorority members yet is lauded as a trailblazer.....	13
B. Darren Merager: a trans-identifying male exposes himself to women and girls in the female changing room of Wi Spa; media portrayals discredit his accusers	15

Table of Contents

	<i>Page</i>
C. Tremaine Carroll: a trans-identified violent felon rapes two female prisoners; judge orders the prosecutor to refer to him as “she/her” in his trial.	19
III. Males who claim a female gender identity are not part of a protected class	22
CONCLUSION	27

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Grimm v. Gloucester Cnty. Sch. Bd.</i> , 972 F.3d 586 (4th Cir. 2020)	3
<i>Holtmeier v. Kappa Kappa Gamma</i> , Case No. 23-CV-51 (D. Wy. 2025)	4, 14, 15
<i>State of Tennessee v. Cardona</i> , No. 2:24-cv-00072 (E.D. Ky. 2024)	6
<i>United States v. Skrmetti</i> , No. 23-477 (2024)	25, 26
<i>Westenbroek, et al. v. Kappa Kappa Gamma, et al.</i> , Case 1:23-cv-00051-ABJ (2023)	4, 13, 15
Constitutional Provisions	
U.S. Const. amend. VIII.	19
Briefs and Other Court Filings	
<i>California v. Carroll</i> , No. MCR080645, TRANSCRIPT (Sup. Ct. Cal., Co. Madera Dec. 16, 2024)	21
<i>Chandler v. California Dept. of Corrections and Rehabilitation</i> , No. 1:21-cv-01657-JLT-HBK, DECLARATION OF TREMAYNE CARROLL (May 9, 2022)	19

Cited Authorities

	<i>Page</i>
<i>Chandler v. Macomber</i> , No. 1:21-cv-01657-JLT-HBK, AMENDED COMPLAINT (July 19, 2024)	20, 22
<i>JJS v. W.S. Pliler</i> , 19-CV-2020 REPORT AND RECOMMENDATION (SDNY August 3, 2022)	21
<i>Little v. Hecox</i> , PETITION FOR WRIT OF CERTIORARI, No. 24-38 (2024)	5
<i>Tennessee v. Cardona</i> , A.C. DECLARATION, No. 2:24-cv-00072 (E.D. Ky. filed May 3, 2024)	9
<i>United States v. Skrmetti</i> , No. 23-477, BRIEF <i>AMICUS CURIAE</i> OF THE WOMEN’S LIBERATION FRONT IN SUPPORT OF RESPONDENTS	5, 23, 24
<i>United States v. Skrmetti</i> , No. 23-477, BRIEF FOR THE PETITIONER (S. Ct. August 2024)	23
<i>West Virginia v. B.P.J.</i> , PETITION FOR WRIT OF CERTIORARI, No. 24-43 (2024)	6
<i>West Virginia v. B.P.J.</i> , RESPONDENT’S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI, No. 24-43 (2024)	10

Cited Authorities

	<i>Page</i>
<i>Westenbroek v. Kappa Kappa Gamma</i> , No. 23-CV-00051-ABJ, COMPLAINT	13, 14
<i>Westenbroek v. Kappa Kappa Gamma</i> , No. 23-CV-00051-ABJ, MEMORANDUM IN SUPPORT OF DEFENDANTS KAPPA KAPPA GAMMA FRATERNITY, MARY PAT ROONEY, AND KAPPA KAPPA GAMMA BUILDING CO.’S MOTION TO DISMISS (June 20, 2023) .	14
<i>Westenbroek v. Kappa Kappa Gamma</i> , ORDER DENYING DEFENDANT’S MOTION TO DISMISS . .	14

Other Authorities

W. Burdette Carter, <i>Sexism in the “Bathroom Debates”: How Bathrooms Really Became Separated by Sex</i> , YALE LAW & POLICY REVIEW, 37 (1) 227-297 (2018), https://doi.org/https://yalelawandpolicy.org/sites/default/files/YLPR/carter_vol.37.1_227-297.pdf	3
City News Service, <i>Viral Video of Client Complaining About Trans Woman in LA Spa Sparks Protests</i> , NBC LOS ANGELES (July 3, 2021)	16
Adelaia Cross, <i>A boy beat me in track and sexually harassed me. Biden thinks I’m the problem</i> , Fox News (May 7, 2024)	11, 12

Cited Authorities

	<i>Page</i>
The Independent Council on Women’s Sports, Fast Facts Sports.	2
Sam Levin and Lois Beckett, “A <i>nightmare scenario</i> ”: how an anti-trans Instagram post led to violence in the streets, THE GUARDIAN (July 28, 2021)	17
Adam Liptak, <i>Supreme Court Rules for Transgender Girl in School Sports Dispute</i> , N.Y. TIMES (April 6, 2023)	10, 11
Quispe López and Kieran Press-Reynolds, <i>How a video that may have been a hoax caused a frenzy on the right and ignited violent anti-trans protests at an LA spa</i> , BUSINESS INSIDER (July 21, 2021)	17
Susannah Luthi, <i>Biden Judicial Nominee Sent Trans Male Rapist to Female Prison, Arguing Safety Concerns Were Overblown. Now, Sources Say He is Exposing Himself to Inmates</i> , THE FREE BEACON (July 10, 2024)	21
Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health, Sex, Male, and Female (7th ed. 2003), https://medical-dictionary.thefreedictionary.com	1

Cited Authorities

	<i>Page</i>
John Money, GENDER ROLE, GENDER IDENTITY, CORE GENDER IDENTITY: USAGE AND DEFINITION OF TERMS, J. Amer. Acad. Psychoanalysis, 1(4):397-403 (1973), <i>available upon request</i>	3
Chris Pandolfo, Mike Ruiz, <i>3rd-strike ‘trans’ rape suspect prompts rebellion against CA law after attack in women’s prison</i> , Fox News (June 3, 2024)	19
Jeremy Lee Quinn, <i>Exclusive: WiSpa suspect not guilty on all nine counts of indecent exposure</i> , L.A. MAG. (June 1, 2025)	19
David Savage, <i>Supreme Court says 12-year-old transgender girl may compete against other girls in West Virginia</i> , L.A. TIMES (April 6, 2023)	12
Kevin Shea, <i>Transgender inmate’s transfer from N.J. women’s prison after 2 pregnancies ruled justified</i> , NJ.COM (Nov. 2. 2024)	21
Andrew George Thomas <i>et al.</i> , <i>Sex Differences in Voyeuristic and Exhibitionistic Interests: Exploring the Mediating Roles of Sociosexuality and Sexual Compulsivity from an Evolutionary Perspective</i> , ARCH SEX BEHAV, 2021 Jul;50(5):2151-2162. doi: 10.1007/s10508-021-01991-0	18

Cited Authorities

	<i>Page</i>
Transgender FAQ, Transgender FAQ GLAAD. . . .	24
Evan Urquart, <i>Violence Over an Alleged Transphobic Hoax Shows the Danger of Underestimating Anti-Trans Hate</i> , SLATE (July 9, 2021)	17
William Wan, <i>A trans woman joined a Wyoming sorority. Then her new sisters sued</i> , WASHINGTON POST (Oct. 14, 2023)	15
Rachel Weiner, <i>Trans runner Becky Pepper- Jackson can stay on West Virginia team</i> , THE WASHINGTON POST (April 16, 2024)	12
The Williams Institute, <i>How many adults and youths identify as transgender in the United States</i> (August 2025)	18
WoLF, <i>Input for SR VAWG’s report on violence against women and girls</i> (April 24, 2024)	3

IDENTITY AND INTEREST OF AMICUS BRIEF¹

Amicus is the Women’s Liberation Front (“WoLF”), a non-profit radical feminist organization dedicated to the liberation of women and girls by abolishing gender and sex discrimination. As a radical feminist organization, WoLF rejects gender identity beliefs because they are founded on regressive sex stereotypes and undermine women’s sex-based rights (including lesbian and bisexual women who comprise nearly 40% of WoLF’s membership—and who make up the majority of women diagnosed with gender dysphoria). WoLF’s interest in this case stems from its interest in protecting those most affected by gender ideology, women and girls, from its harmful effects. These include the infiltration of males into female only sports and spaces, categories created not only to promote equal opportunity for women and girls, but to protect them from acts of sexual violence by males. *Amicus* uses “sex” throughout to mean “the fundamental distinction, found in most species of animals and plants, based on the type of gametes produced by the individual,” and the resulting classification of human beings into those two reproductive classes: female (women and girls) or male (men and boys).²

1. No counsel for any party authored any part of this brief, and no party, their counsel, or anyone other than WoLF, has made a monetary contribution intended to fund its preparation or submission.

2. See Sex, Male, and Female, Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health (7th ed. 2003), <https://medical-dictionary.thefreedictionary.com>.

SUMMARY OF ARGUMENT

Laws that treat transgender identification as a protected characteristic open female sports and spaces to any male who claims a female identity. When such males rely on these laws to gain access to female sports and spaces, court records and mainstream media commonly portray them sympathetically as innocent victims and civil rights crusaders who bravely challenge the notion that the “female only” designation should exclude men. The public records have commonly ignored or even denied when these males use their access to female only sports and spaces to sexually harass, intimidate, expose themselves to, and rape women, including in locker rooms, sororities, spas, and prisons. Ignoring this pattern of sexual transgression hides the true stakes of these cases: granting transgendered males protected status will come at the cost of the rights of women and girls.

ARGUMENT

The cases before the Court are part of a spate of litigation provoked by the notion that certain males are in fact a category of female, and *vice versa* for certain females, though the implications are very different for the two sexes. When males insist they are women or girls, many demand access to sport teams and spaces that exclude males (which exist for the express purpose of protecting females). Males are on average larger and physically stronger than females, making their inclusion in female sport unsafe and unfair.³ Moreover, male-pattern

3. The Independent Council on Women’s Sports (ICONS) has developed a facts sheet summarizing findings of male physical advantage over women in sports, including advantages in size, strength, speed, and musculature. ICONS, Fast Facts Sports.

sexual aggression poses a threat to women and girls in all sex-segregated spaces,⁴ including sports locker rooms. For these reasons, court cases and other high-profile instances of individuals infiltrating sports and spaces reserved to the opposite sex have overwhelmingly involved males who claim a female identity.⁵

This special category of males calls themselves “transgender.” Once the fringe obsession of sexologists,⁶

4. See, e.g., W. Burdette Carter, *Sexism in the “Bathroom Debates”: How Bathrooms Really Became Separated by Sex*, YALE LAW & POLICY REVIEW, 37 (1) 227-297 (2018), https://doi.org/https://yalelawandpolicy.org/sites/default/files/YLPR/carter_vol.37.1_227-297.pdf. (“[S]ex-separation in [public intimate spaces such as bathrooms and locker rooms] dates back to ancient times, and, in the United States, preceded the nation’s founding. [A] key purpose of sex-separation in bathrooms was to protect women and girls from sexual harassment and sexual assault in the workplace and other venues.”)

5. WoLF provided input to a call from the U.N. Special Rapporteur on violence against women and girls to the UN General Assembly on violence against women and girls in sport. See WoLF, *Input for SR VAWG’s report on violence against women and girls* (April 24, 2024). The input contains numerous examples of males unfairly displacing and injuring women in sport. The case of *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) is an example of the less common case of a female intruding on male spaces while claiming a trans identity.

6. The concept of “gender identity” is associated with John Money the mid-20th century sexologist who is infamous for a disastrous experiment in which he sought to impose a female “identity” on a boy who later killed himself. Money defined “gender identity” as “the private experience of a gender role,” meaning a subjectively experienced identity that can be claimed by either sex. John Money, GENDER ROLE, GENDER IDENTITY, CORE GENDER IDENTITY: USAGE AND DEFINITION OF TERMS, J. Amer. Acad. Psychoanalysis, 1(4):397-403 (1973), *available upon request*.

the project to validate and promote transgender identities has entered the mainstream, resulting in an organized campaign to dismantle sex-based protections in not only in sports and locker rooms, but in all sex-segregated spaces, including bathrooms, spas, sororities, rape shelters, and prisons. Cases like the ones before the court arise from efforts to resist this campaign, efforts led by a loose coalition of radical feminists, gay and lesbian rights advocates, parents' groups, and others who object to the reality of sex differences being subsumed by the subjective and mystical notion of transgender identity.

These cases have considered constitutional arguments and federal laws creating female only categories, like the cases before the Court here, as well as state laws, regulations and policies at all levels of government; they have sometimes parsed definitions of the word “woman.”⁷ The central constitutional argument is that individuals claiming transgender identities deserve special protection as a suspect or quasi-suspect class under the Equal Protection Clause of the United States Constitution. These cases have resulted in conflicting opinions and a circuit split, as noted in the petition for *certiorari* in one of the cases before this Court:

these splits span eleven different cases in the courts of appeals, many with multiple opinions. The splits have presented in a

7. See *Holtmeier v. Kappa Kappa Gamma*, Case No. ·23-CV-51 (D. Wy August 22, 2025) at 20 (*previously Westenbroek v. Kappa Kappa Gamma et. al*) (finding, after an extended discussion of definitions of the word “woman,” that a sorority did not breach its obligation to create a sorority for women only by interpreting “women” to include the opposite of women, *i.e.*, men.)

variety of different factual contexts involving gender identity: sports, bathrooms, medical procedures, birth certificates, and military service. The splits are wide, well-developed, and openly acknowledged, with the circuits having fully ventilated the issues in opinions citing, following, disagreeing with, and distinguishing the others.

Little v. Hecox, PETITION FOR WRIT OF CERTIORARI, No. 24-38 (2024). In *United States v Skrmetti*, no. 23-477 (2024), this Court did not resolve this split, finding that the state bans on medical procedures to modify sex traits in minors did not discriminate based on “transgender status.” *Id.* at 16. In concurring opinions, however, three Justices indicated that they would have ruled against protecting “transgender status” as a suspect or quasi-suspect class. *See id.*, concurring opinions of Justice Barrett (joined by Justice Thomas) and Justice Alito. But even opinions that have rejected the constitutional argument underlying demands for male inclusion have largely bypassed the foundational question of why a male might want access to female only spaces and activities in the first place, as though it were impolite to ask. The refusal to tackle this question subordinates the well-being and physical safety of women and girls to the subjective feelings of a certain category of males.

I. Respondent B.P.J., a male, is accused of threatening his female teammates with rape.

Underlying the civil rights language, with claims about immutable traits, powerlessness, and oppression, there is often a less exalted aspect to cases in which men

claiming a transgender identity seek entry to places and activities restricted to females. This aspect is explicitly present in the cases before the Court here, where the testimony of a female athlete under penalty of perjury affirms something that was once almost universally understood, but that is inconvenient to acknowledge for advocates of male inclusion in female only categories. This something is a simple truth so obvious it should hardly need to be said yet now so inflammatory that it is routinely suppressed. It is the following: males who disregard boundaries created to protect females pose a unique threat of sexual transgression to women and girls. Advocates for the rights of males to infiltrate women's spaces and activities seek to erode the shared understanding of this simple truth, to make it seem regressive to protect women and girls from the threat of sexually intrusive males—or to even acknowledge that the threat exists.

Petitioner B.P.J.'s brief for certiorari alludes to this threat when it states that “B.P.J. has allegedly subjected A.C. and other female teammates to ‘offensive and inappropriate sexual comments.’” *West Virginia v. B.P.J.*, PETITION FOR WRIT OF CERTIORARI, No. 24-43 at 11 (2024). A.C. is a former female teammate of B.P.J.'s. She joined *State of Tennessee v. Cardona*, No. 2:24-cv-00072 (E.D. Ky. 2024), a lawsuit brought by several states to challenge a regulation of the Biden Administration that would have turned Title IX on its head by requiring schools to allow boys in girls' locker rooms and other traditionally female only spaces and activities. The allusion to “offensive and inappropriate sexual comments” understates the harassment by B.P.J. described in A.C.'s declaration. In fact, according to A.C., B.P.J. subjected girls on his team to a protracted campaign of sexual intimidation. The

following paragraphs come from the declaration of A.C., made under penalty of perjury:

51. B.P.J. made several offensive and inappropriate sexual comments to me. At first, it did not occur often, and I tried my best to ignore it.

52. But during my final year of middle school, B.P.J. made inappropriate sexual comments a lot more often; it increased throughout that year; and the comments became much more aggressive, vile, and disturbing.

53. Sometimes B.P.J.'s comments were just annoying, like commenting that I have a "nice butt."

54. But other times, I felt really embarrassed, and I didn't want to repeat the gross things B.P.J. said to me.

55. During the end of that year, about two to three times per week, B.P.J. would look at me and say "suck my d***." There were usually other girls around who heard this. I heard B.P.J. say the same thing to my other teammates, too.

56. B.P.J. made other more explicit sexual statements that felt threatening to me. At times, B.P.J. told me quietly "I'm gonna stick my d*** into your pu***." And B.P.J. sometimes added "and in your a**" as well. These comments were disturbing and caused me deep distress.

57. B.P.J. made these vulgar comments towards me in the locker room, on the track, and in the throwing pit for discus and shotput.

58. I felt confused and disgusted when I heard these vulgar and aggressive comments. It was especially confusing because I was told that B.P.J. was on the girls' team because B.P.J. identifies as a girl, but the girls on the team never talked like that.

59. Most of the time, B.P.J. made these sexual comments at girls' track practice. Our team walked from Bridgeport Middle School to the High School for track practice, where we would train on the high school track. B.P.J. often popped up beside me as we walked and said these things. Other times, B.P.J. made comments as our team was sitting in the endzone waiting for coaches to get practice going. At least one time, it happened in the girls' locker room.

60. Middle school kids can have foul mouths. The kids at my middle school sometimes said raunchy things, but they were not as explicit or aggressive as the things B.P.J. said.

61. I reported B.P.J.'s sexual comments to my coach and middle school administrators. Initially, the administrators told me that they were investigating, but we never heard back, and nothing changed. From what I saw, B.P.J. got very little or no punishment for saying

things that no other student would get away with.

Tennessee v. Cardona, A.C. DECLARATION at 4-7, No. 2:24-cv-00072 (E.D. Ky. filed May 3, 2024). In short, a boy claiming a transgender identity to gain access to female only sports and facilities is accused of using that access to sexually threaten and intimidate girls. Surely this testimony is relevant to whether that access should be granted: the entire basis for granting boys access to girl's sport is the assumption of the boy's subjective sense of being a girl and the resulting feeling of stigmatization that would result from being treated like a boy. His objective behavior points to a different motivation for wanting to play on the girls' team, bears on the effects of his participation, and begs the question of whether the law should privilege a boy's reported subjective feelings over the objective reality of sex differences. Yet, this aspect of the B.P.J. story has so far been underplayed in court and received almost no attention from the media.

To the contrary, respondent's brief arguing against certiorari paints an extraordinarily sympathetic portrait of B.P.J. as a "transgender girl" who simply seeks to participate in the sport he loves. Their brief introduces B.P.J. as:

a 14-year-old girl from West Virginia who is transgender. Like many children her age, B.P.J. loves to run and play on sports teams with her friends. She relishes the friendships that sports have allowed her to build and the personal satisfaction that comes from trying her best.

West Virginia v. B.P.J., RESPONDENT’S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI, No. 24-43 (2024) at 2 (wrong sex pronouns in the original). The brief describes B.P.J as “devastated” that he couldn’t participate in middle cross country and track, inaccurately stating that he was blocked “just because she [sic] is transgender,” when of course he was blocked from female sport because he is male. *Id.* at 6. The brief suggests B.P.J. isn’t even a particularly good athlete, noting his middling placement in several events, *id.* at 7 but ignoring that by all accounts his performance greatly improved over the course of the several years he competed in girls’ sports. *See B.P.J. v. West Virginia*, No. 23-1078 at 49 (4th Cir. 2024), (*Agee, J., dissenting*).

The Fourth Circuit’s treatment of B.P.J is similarly sympathetic, accepting uncritically that for B.P.J., a boy, to be excluded from girl’s sport would cause “emotional and dignitary harm” because of the “stigma of being unable to participate on a team with one’s friends and peers.” *Id.* at 34 (*citations omitted*). This framing glosses over the questions of why a boy should feel stigmatized by being excluded from a girls’ team in the first place and how a court can know that what compels a boy to insinuate himself into girls’ sport is his subjective sense of stigmatization and not something else.

Most mainstream media coverage of B.P.J. has been similarly unskeptical. An article in the *New York Times* reporting the Fourth Circuit decision is representative, writing that B.P.J had “long lived as a girl”⁸ as though a

8. *See* Adam Liptak, *Supreme Court Rules for Transgender Girl in School Sports Dispute*, N.Y. TIMES (April 6, 2023).

boy “living as a girl” were simply a matter of individual choice, and not a disruptive practice that has been imposed without consent on the rest of society, with the effect of upending long held social norms and expectations, and subjecting women and girls to “indignity,” harassment, intimidation, and assault. The article quotes liberally from B.P.J.’s attorneys, who characterize the West Virginia law protecting female only sport as “a baseless and cruel effort to keep Becky from where she belongs — playing alongside her peers as a teammate and as a friend,” and reserves the closing paragraph to the attorneys’ unchecked misrepresentations:

Becky’s coaches and teammates supported her participation, her lawyers wrote in a Supreme Court brief, and children on other teams did not object. “Despite regularly finishing near the back of the pack, she loves to play, have fun with her friends and try her best,” the brief said.⁹

Besides using female pronouns to describe a boy, the paragraph paints a picture of collegiality that subsequent events swiftly debunked. Not only would A.C., one of B.P.J.’s former teammates, join a lawsuit to challenge laws and policies allowing boys in female-only sports, but within days of the Fourth Circuit decision, several girls on an opposing shot-put team refused to play against B.P.J., resulting in their being banned from future competitions.¹⁰ Moreover, as extensively documented in Judge Agee’s dissent in *B.P.J. v. West Virginia*, B.P.J.’s performance

9. *Id.*

10. See Adelaia Cross, *A boy beat me in track and sexually harassed me. Biden thinks I’m the problem*, Fox News (May 7, 2024).

improved dramatically over his years competing on girls' teams, resulting in at least 100 times where his participation displaced girls from making cuts or claiming victories in girls' sports. *B.P.J. v. West Virginia* at 49. Several other mainstream media outlets have taken the same unquestioning approach to their reporting on B.P.J., portraying his legal campaign to sanction male infiltration of female sport sympathetically, but going silent when allegations surfaced that he had threatened his teammates with rape.¹¹

II. Trans identifying males have sexually intimidated, assaulted, and raped women in women's only spaces, including sororities, spas, and prisons.

A similar pattern characterizes other high-profile cases in which men have elbowed their way into female only spaces by identifying as transgender only to use their access to harass, intimidate, and assault women. In each of these cases, the public account in court orders

11. See, e.g., Rachel Weiner, *Trans runner Becky Pepper-Jackson can stay on West Virginia team*, THE WASHINGTON POST (April 16, 2024) (quoting from court opinion that B.P.J. “has identified as female for five years — nearly half her life Since elementary school, she has only participated in girls’ sports. She has a birth certificate that identifies her as female. And she takes medication to block male puberty and undergo female puberty”); David Savage, *Supreme Court says 12-year-old transgender girl may compete against other girls in West Virginia*, L.A. TIMES (April 6, 2023) (B.P.J. “has been an enthusiastic member of the girls’ cross-country team, even though she is not a fast runner and usually finished well back in the pack. Her school had welcomed her participation until the state adopted the law.”) Fox News appears to be the only mainstream media outlet to report on B.P.J.’s sexual harassment of his teammates. See Adelaia Cross, n.7, *supra*.

and mainstream media buries the lede of male sexual transgression under the non sequitur of transgender identity.

A. Artemis Langford: A trans-identified male is accused of sexually intimidating female sorority members yet is lauded as a trailblazer.

In *Westenbroek, et al. v. Kappa Kappa Gamma, et al.*, Case 1:23-cv-00051-ABJ (2023), female students at the University of Wyoming sued the Kappa Kappa Gamma sorority, an all-female institution, for admitting a male who went by the name of Artemis Langford. See *Westenbroek v. Kappa Kappa Gamma*, COMPLAINT at 48, 50. Because he claimed a transgender identity, Mr. Langford had access to private, female only spaces in the sorority house, including the “PJ”, the room where female sorority members socialized in their pajamas. According to the initial complaint, Mr. Langford used his access to photograph female sorority members without their consent, leer at them with a visibly erect penis while the female members were in the PJ room or changing, and to ask intrusive questions about their vaginas and breasts. Sorority members stated that Mr. Langford’s presence in the sorority made them feel uncomfortable and unsafe. *Id.* at 50, 58-61.

None of which the district court considered relevant to whether the sorority misled its members by defining “women only” to include men. The court acknowledged allegations “of salacious impropriety at the chapter house and elsewhere,” but dismissed these in a footnote as “peripheral” to whether the sorority’s admission of a male breached their fiduciary duty or contractual

obligations to admit only women. *Westerbroek*, n.16 *and accompanying text*. In one sense, the district court was correct: the word “woman” excludes all men, regardless of whether they engage in salacious impropriety. But by dismissing allegations of Mr. Langford’s sexually intimidating remarks, the Court excused itself from drawing the connection between the behavior he was accused of and the wholly reasonable expectation of the female sorority members that the contractual term “women only” would exclude men. Treating the allegations of inappropriate behavior seriously might have prompted a clear-eyed dissection of the basis for this expectation, and of the absurd and dangerous consequence of reading a contractual term to include its opposite. Instead, the opinion reads as a legalistic and unpersuasive exercise in semantics. The district court dismissed the case without prejudice and, in a subsequent hearing, rebuked plaintiffs for including “irrelevant stigmatizing allegations.” *Westenbroek v. Kappa Kappa Gamma*, ORDER DENYING DEFENDANT’S MOTION TO DISMISS at 7.¹² After the plaintiffs

12. The district court described the multiple allegations of sexual impropriety as not only irrelevant but “unsubstantiated” and “contested.” Yet, in the memorandum in support of their motion to dismiss, Langford’s attorneys do not so much as attempt a refutation of the allegations other than the perfunctory assertion that the complaint “is rife with false, inflammatory allegations that do not relate to the claims Plaintiffs assert.” *Westenbroek v. Kappa Kappa Gamma*, No. 23-CV-00051-ABJ MEMORANDUM IN SUPPORT OF DEFENDANTS KAPPA KAPPA GAMMA FRATERNITY, MARY PAT ROONEY, AND KAPPA KAPPA GAMMA BUILDING Co.’S MOTION TO DISMISS at 3 (June 20, 2023). The court pointed to disagreement about whether, in one of multiple alleged instances of Mr. Langford leering at the female sorority sisters, his penis was visibly erect, as though that discredited multiple similar allegations that had not been refuted and that had, by the court’s own admission, been repeated in court filings, Congressional testimony, and media interviews. *Holtmeier*, n.1 *and accompanying text*.

refiled their complaint, the court dismissed the case again, this time with prejudice. See *Holtmeier v. Kappa Kappa Gamma*, Case No. 23-CV-51 (D. Wy. 2025) at 20 (previously *Westenbroek v. Kappa Kappa Gamma et. al*).

As with B.P.J., the mainstream media has often ignored or sought to discredit allegations about Mr. Langford's sexually inappropriate behavior towards the sorority members. The *Washington Post* published a hagiographic profile of Mr. Langford, approvingly quoting his description of himself as a trailblazer, implicitly lauding him for, as a male, blazing a trail for other men to infiltrate female-only establishments.¹³ The article refers obliquely to the graphic testimony of the female sorority members about Mr. Langford's inappropriate remarks and behavior, quoting Mr. Langford as remembering some of the things he has been accused of, but disavowing any suggestion of impropriety, stating that his behavior "in their version was twisted to look weird, gross, sexual." Implicitly, the reporting accepts Mr. Langford's denial of sexually inappropriate behavior, stubbornly ignoring the question that is begging to be asked: might an awkward heterosexual male seek access to female only spaces for reasons other than a self-proclaimed transgender identity?

B. Darren Merager: a trans-identifying male exposes himself to women and girls in the female changing room of Wi Spa; media portrayals discredit his accusers.

When Darren Merager, a registered sex offender

13. See William Wan, *A trans woman joined a Wyoming sorority. Then her new sisters sued*, WASHINGTON POST (Oct. 14, 2023)

who claimed a transgender identity, exposed himself in the female only changing rooms of Wi Spa, mainstream accounts discredited the women and girls who complained about him. Wi Spa is a Korean spa in Los Angeles' Koreatown. As is typical of traditional Korean spas, Wi Spa has separate spa facilities for men and women to allow customers to use the spa while naked without the discomfort of exposing themselves to the opposite sex. In fact, Wi Spa does not allow swimwear in its sex segregated spaces: if an intact male gains entry to the female-only area because he claims to be “transgender,” women and girls will not only themselves be naked and exposed to a male, but they will be exposed to male genitals in a female only space.

On July 24, 2021, a female Wi Spa customer posted a video to Instagram in which she confronted Wi Spa staff about a man exposing his penis in the women's changing room in front of female patrons, including young girls. Wi Spa staff responded that, by law, they could not discriminate against “transgender women,” meaning that any man was free to use the female only locker room and spa area where all patrons would be naked, provided they said they were women. A male patron intervened during the filming to chastise the female customer, stating that perhaps the trespassing male was transgender, and thus entitled to display his penis in the female changing room.¹⁴

14. See, e.g., City News Service, *Viral Video of Client Complaining About Trans Woman in LA Spa Sparks Protests*, NBC LOS ANGELES (July 3, 2021).

The video was widely viewed, leading to protests, counter protests, and extensive media coverage. Within days of the incident, several mainstream media accounts had concluded that the allegations against the man were a hoax intended to drum up anger against people who call themselves transgender. An article in *The Guardian* that referred to a “nightmare scenario” to describe purported harms to trans-identifying people from the objections of women and girls to a naked man in their locker room typified the mainstream coverage.¹⁵ In its second paragraph, the article characterized the allegations that a man claiming a transgender identity had exposed himself in a female only space at Wi Spa as “unsubstantiated” and “distorted,” implied repeatedly that the allegations were “misinformation,” and cast doubt on whether a “trans person” was even present at the spa.

In other words, mainstream accounts reflexively discredited a woman alleging sexual impropriety by a man who claimed a transgender identity to access female only spaces where women and girls would be naked, arguing alternatively that no “transwoman” was present and that in any case, such men pose no threat to women, even in intimate spaces. Stated differently, presented with a story about a man who infiltrated a female only intimate space, these outlets defaulted to the novel, exotic explanation that

15. Sam Levin and Lois Beckett, “A *nightmare scenario*”: how an anti-trans Instagram post led to violence in the streets, *THE GUARDIAN* (July 28, 2021); see also Quispe López and Kieran Press-Reynolds, *How a video that may have been a hoax caused a frenzy on the right and ignited violent anti-trans protests at an LA spa*, *BUSINESS INSIDER* (July 21, 2021); Evan Urquart, *Violence Over an Alleged Transphobic Hoax Shows the Danger of Underestimating Anti-Trans Hate*, *SLATE* (July 9, 2021).

the man was a “transwoman” born in a male body rather than the familiar, statistically more likely explanation of deviant male sexuality.¹⁶

By early September 2021, police had identified the suspect as a repeat sex offender with multiple convictions for indecent exposure and a trans-identified male. Four women and a female minor brought charges against him for indecent exposure related to the Wi Spa incident. But California law protects male access to female-only spaces for males who identify as females; demonstrating that he was present and naked in a female-only space was insufficient to support charges. Mr. Merager was acquitted because the prosecution failed to prove beyond a reasonable doubt that he was erect during the incident. Following his acquittal, Mr. Merager told L.A. Magazine that he intended to continue using female-only facilities. Echoing Mr. Langford’s description of himself as a “trailblazer,” Mr. Merager referred himself as a “pioneer.” In neither case did the reporter challenge their subject’s

16. It is true that transgender identification is on the rise, but it remains far less common than exhibitionism among males, particularly adult males. Compare The Williams Institute, *How many adults and youths identify as transgender in the United States* (August 2025) (finding that 3.28 % of youth ages 13-17 identify as transgender while .8 % of adults do) with Andrew George Thomas et al., *Sex Differences in Voyeuristic and Exhibitionistic Interests: Exploring the Mediating Roles of Sociosexuality and Sexual Compulsivity from an Evolutionary Perspective*, ARCH SEX BEHAV, 2021 Jul;50(5):2151-2162. doi: 10.1007/s10508-021-01991-0 (finding that 4-31% of the population has a sexual interest in exhibitionism, depending on how it is defined, with males more likely to be interested than females).

positive spin on their roles in paving the way for other men to invade women’s spaces.¹⁷

C. Tremaine Carroll: a trans-identified violent felon rapes two female prisoners; judge orders the prosecutor to refer to him as “she/her” in his trial.

Tremaine Carroll is a convicted violent felon in the California prison system. In California, male prisoners who claim to be transgender, including male prisoners like Mr. Carroll who have been charged with sex offenses and have intact genitals, can request transfer into the women’s prison. Mr. Carroll was transferred to the Chowchilla women’s correctional facility after claiming to be transgender. At that time, he had already been in the men’s prison for over twenty-two years. *See Chandler v. California Dept. of Corrections and Rehabilitation*, No. 1:21-cv-01657-JLT-HBK, DECLARATION OF TREMAYNE CARROLL (May 9, 2022).¹⁸

WoLF represents four female inmates suing the California Department of Corrections and Rehabilitation, charging (among other things) that placing males in women’s prison facilities subjects female inmates to cruel and unusual punishment under the Eighth Amendment

17. Jeremy Lee Quinn, *Exclusive: WiSpa suspect not guilty on all nine counts of indecent exposure*, L.A. MAG. (June 1, 2025).

18. Mr. Carroll’s declaration omits his violent criminal record, including a charge for sexual assault and a guilty plea for kidnapping. *See* Chris Pandolfo, Mike Ruiz, *3rd-strike ‘trans’ rape suspect prompts rebellion against CA law after attack in women’s prison*, Fox News (June 3, 2024).

of the United States Constitution. The female inmates describe sexual assaults, attempted rapes, voyeurism and a pervasive climate of sexual intimidation they endured due to the presence of males in the women's prison. *See Chandler v. Macomber*, No. 1:21-cv-01657-JLT-HBK, AMENDED COMPLAINT, pp. 12-15 (July 19, 2024). Tremaine Carroll was one of four trans-identified male inmates represented by the ACLU in a motion to intervene in the *Chandler* lawsuit.

Mr. Carroll was returned to the men's prison following accusations that he raped two female inmates at Chowchilla within a twenty-four-hour period. The judge in his rape trial ordered the prosecutor to refer to Mr. Carroll by she/her pronouns over objections by the prosecutor that to do so would undermine the rape charges. The prosecutor argued:

[Mr. Carroll] is a biological male with male genitalia who is currently housed in a male prison and is accused of committing two rapes against two females, a crime that can only be committed by a biological male. ... [T]he Court compelling us to use that language, which is contrary to the facts, could indicate approval for the defendant's legal position.

It certainly runs contrary to our legal theory of the case, [] that the defendant is using these pronouns simply to get into a female prison so he can carry on these unlawful sexual contacts, rapes. It runs contrary to our case. It would lead to confusion at trial in the court hearing—any court hearings or trials. And it's absolutely

disrespectful to and traumatic to the victims that would then have to testify and have to worry about policing their language as to the person that raped them.

California v. Carroll, No. MCR080645, TRANSCRIPT at 9 (Sup. Ct. Cal., Co. Madera Dec. 16, 2024). The judge rejected these arguments, finding the need to protect Mr. Carroll’s dignity to trump the interest in procuring justice for Mr. Carroll’s female victims. *Id.* pp. 11-14.

Mr. Carroll’s case cannot be dismissed as anecdotal. There have been several other high-profile cases of trans-identified male prisoners transferring to women’s prisons only to impregnate,¹⁹ sexually harass,²⁰ and rape female prisoners. This is unsurprising: prisons in the US, UK, and Canada have all found higher rates of sexual

19. Kevin Shea, *Transgender inmate’s transfer from N.J. women’s prison after 2 pregnancies ruled justified*, NJ.COM (Nov. 2, 2024).

20. A magistrate uncritically accepted the claim of a male sex offender that:

[s]he [sic] started noticing that her [sic] gender identity did not match her [sic] gender assigned at birth at age 5, when she [sic] realized that it “wasn’t right” for her[sic] to have a penis.

See *JJS v. W.S. Pliler*, 19-CV-2020 REPORT AND RECOMMENDATION at 10 (SDNY August 3, 2022). The offender was transferred to a women’s prison, where he repeatedly harassed female prisoners by exposing himself. See Susannah Luthi, *Biden Judicial Nominee Sent Trans Male Rapist to Female Prison, Arguing Safety Concerns Were Overblown. Now, Sources Say He is Exposing Himself to Inmates*, THE FREE BEACON (July 10, 2024).

offense among male inmates who identify as transgender than in the total male inmate population. *See Chandler v. Macomber*, AMENDED COMPLAINT at 13. In 2021, US prison statistics indicated that 48% of trans-identifying male inmates had committed a sexual offense, compared to 11.6 % of the general male population. *Id.* Incredibly, these statistics by themselves were not enough to shut down the notion of ever placing transgender-identifying men in women’s prison.

III. Males who claim a female gender identity are not part of a protected class.

On the surface, B.P.J.’s quest for male entry into female sport may seem different from Mr. Langford’s and Mr. Merager’s intrusion into other female-only spaces, and especially different from Mr. Carroll’s foray into women’s prison. For one thing, unlike these other trans-identifying males, B.P.J. is a minor, which may explain the appeal of his case to activists. As WoLF wrote in our *amicus* brief in Skrmetti:

That the transgender rights movement has made the “transgender child” the face of its activism is not surprising. A child or adolescent denied access to “gender affirming care” or to the girl’s locker room to ease the child’s sense of “misalignment” between his or her “gender identity” and sex is a more sympathetic figure than, for example, an adult male seeking access to female only spaces. But the former paves the way to the latter.

Skrmetti, BRIEF *AMICUS CURIAE* OF THE WOMEN’S LIBERATION FRONT IN SUPPORT OF RESPONDENTS at 17. Despite the differences, the cases of Mr. Langford, Mr. Merager, Mr. Carroll, and the consistent finding of high rates of sexual offense among trans-identified male prisoners bear directly on the question presented by B.P.J.’s participation in female-only sport. If transgender identity is a protected characteristic under the Equal Protection Clause, then trans-identified males would be protected not only in sports, but in all these contexts. Moreover, *all* trans-identified males would be protected in all these contexts, including trans-identified males who sexually harass, intimidate, and abuse women.

This is so because advocates for male entry into female sport and spaces allow for only one test to decide which males should be given entry into female categories and that test is whether the male identifies as a female. This test is implicit in Respondent’s arguments; for example, Respondent B.P.J. uses the term “transgender” 76 times, but never defines the term, as though his identification as a “transgender girl” forecloses the question of what it means for a male to identify as a special kind of female that only a male can be. *B.P.J.*, MEMORANDUM IN OPPOSITION. As Petitioner in *Skrmetti*, the United States gave a description of “transgender” that tracks how activists define the term. While claiming that “transgender individuals . . . share[] ‘obvious, immutable, or distinguishing characteristics that define them as a discrete group,’” *United States v. Skrmetti*, No. 23-477, BRIEF FOR THE PETITIONER (S. Ct. August 2024), Petitioner identified only one such characteristic, namely, that “their gender identities do not align with their respective sexes

assigned at birth.” *Id.* at 29.²¹ In other words, the test is a subjective one; there exists no objective measure by which others can assess the truth of a particular male’s claim to a female identity because the claim rests entirely on an internal sense of misalignment and must be accepted on its face. The diversity of facts in the two cases highlights the absurdity of relying on self-identification as the basis for creating a protected class, as there is little basis for including both in the same class, other than subjective self-identification.

Evaluating both cases together highlights the differences in a way that might give the Court greater pause when making a ruling that would apply to *all* self-identified transgender males. A minor, who has taken puberty blockers, who is playing middle school sports and has had a rather middling performance, is a more sympathetic party than an adult male who went through normal male puberty before engaging in any medical interventions, is playing collegiate sports, and whose performance has been more stark as far as displacement of female athletics. Respondents would strongly prefer to illustrate only the former for the Court, obfuscating that the ruling would equally apply to the latter.

21. For example, GLAAD provides the following definition:

Transgender is a term used to describe people whose gender identity differs from the sex they were assigned at birth. **Gender identity** is a person’s internal, personal sense of being a man or a woman (or boy or girl.) For some people, their gender identity does not fit neatly into those two choices. For transgender people, the sex they were assigned at birth and their own internal gender identity do not match.

See Transgender FAQ, Transgender FAQ | GLAAD.

While the Me-Too movement has been pilloried for urging people to believe women when they describe their experiences with sexual violence, many courts and the media have given gender activists a pass on their movement's core edict of Believe All Men.

It follows that it does not matter if any particular male who says he is female uses his access to female spaces to abuse or rape women. In the cases of B.P.J., Mr. Langford, and Mr. Merager, public accounts ignored, dismissed, or discredited allegations of their sexually transgressive behavior, but never suggested the allegations cast doubt on their professed identities. And though rape accusations led to Mr. Carroll's transfer to the men's prison, his violent history including being charged as a sex offender did not prevent his transfer to the women's prison in the first place and the accusations did not stop the judge from ordering that Mr. Carroll be referred to with female pronouns, potentially interfering with justice for his female victims. If men can be women, the concept of women's rights is meaningless.

Advocates for male entry into female only categories seek to constitutionalize this clash between the rights of women and the demands of men who say they are women. The demand for special protection under the Equal Protection Clause for "transgender status" would for the first time take rights from an existing protected class—women and girls, a quasi-suspect class because of their history of enduring "severe and pervasive" discrimination—and grant them to a novel class that includes trans-identifying males. Justice Alito seems to have foreseen this inevitable clash. In his concurring opinion in *Skirmetti*, Alito rejected the question of whether

“transgender status” is a protected characteristic under the Equal Protection Clause but noted that the question “has divided the Courts of Appeals, and if we do not confront it now, we will almost certainly be required to do so very soon.” *Skrmetti* at 10 (*footnote omitted*). B.P.J. and his trans-identified brethren who have been accused of sexual misconduct towards women and girls are a stark warning of the consequences to answering this question in their favor. The Court only needs to pay attention to it.

CONCLUSION

For the foregoing reasons, the Court should overturn the decision below.

Respectfully submitted,

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