

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

DOE, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 17-cv-1597 (CKK)
)	
DONALD TRUMP, et al.,)	
)	
<i>Defendants.</i>)	
)	

**DECLARATION OF REGAN V. KIBBY
IN SUPPORT OF PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

I, Regan Kibby, declare as follows:

1. I am a nineteen year old midshipman at the United States Naval Academy in Annapolis, Maryland. I have completed the first two years of my Naval Academy education, double majoring in English and History. I am transgender.

Early Education and Entrance to the Naval Academy

2. I was born in San Diego and lived there until the fifth grade, when I moved to North Carolina. Spending my formative years in a big military town like San Diego made the thought of serving present for me from an early age.

3. My father had served in the Navy, which ingrained in me a deep recognition of the pride and honor associated with military service. I always felt that if I could serve my country in the Armed Forces, I should. It felt like a duty.

4. In high school I enrolled in the Junior Reserve Officers’ Training Corps. My instructors recognized that I had potential and encouraged me to begin planning for my future,

including looking into the service academies. I did research, and by my junior year I was set on attending an academy.

5. I applied to the summer seminars at the United States Military Academy, the United States Air Force Academy, and the United States Naval Academy and got accepted to all of them. I attended each in consecutive weeks during the summer after my junior year of high school. At the beginning of senior year I did a candidate visit to the Coast Guard Academy.

6. I was very driven to do what it took to get into an academy. I focused hard on sports, extracurricular activities, and JROTC. I excelled at academics, took advanced classes, and never received less than A. I had strong test scores.

7. I found I was drawn to maritime service and decided to apply to the Naval and Coast Guard academies. I also applied to Norwich University and the Virginia Military Institute and was accepted to both with a full Navy Reserve Officers' Training Corps scholarship.

8. When I was accepted to the Naval Academy, I immediately decided to enroll there. My Induction Day occurred on July 1, 2015, and I joined the class of 2019. I was extremely proud to become a midshipman and knew I was where I wanted to be.

9. My first two years at the Naval Academy have been a rigorous and rewarding experience. After I graduate, I hope to perform my service as a Surface Warfare Officer aboard a Navy ship.

Transgender Identity and Coming Out at the Naval Academy

10. I always felt out of place in the social roles that were expected of me as a result of the sex assigned to me at birth. For a while I did not have the words to describe how I felt. In middle school I learned the term "transgender" and tried to learn more about it. At the time I did

not quite know why I felt so drawn to the subject, but I knew that learning about the identity and seeing the stories of transgender people made me feel inexplicably happy and right.

11. Around the same time, I was getting more serious about a future in the military. During my freshman year of high school Don't Ask Don't Tell was repealed, but transgender people were still prohibited from military service. Some part of me internalized the reality that being transgender and being in the military were not coinciding identities, and as a result I tried not to think about my gender. I stopped doing research and did not discuss it with anyone, and before long I had succeeded in burying that short span of partial realization. Unfortunately, I also buried the feelings of happiness and rightness I had briefly experienced.

12. Due to my masculine appearance and behavior, many people in school automatically perceived me as gay. Instead of openly identifying myself as transgender, even to myself, I accepted that label. Even though being labelled gay in rural North Carolina is not easy, I think I subconsciously knew that it was easier than being transgender.

13. On July 28, 2015, after I started at the Naval Academy, Secretary of Defense Ashton Carter issued an order announcing that transgender people could not be separated from the military on the basis of their gender identity.

14. Following this announcement, I started to allow myself to think more about my identity. I started being more open and honest with myself and began remembering things I had tried to ignore. After a period of self-realization, a few months into freshman year, I started to come out as transgender.

15. The first people I came out to were in Navy Spectrum, an organization for LGBT midshipmen and their allies. I also talked to my sister, with whom I am really close. I then came out to my three roommates, all of whom were very accepting. After that, I came out to the rest

of my family, and during my second semester in early 2016, I came out to my chain of command including my Company Officer.

Developing a Transition Plan to Serve Openly

16. My Company Officer was very accepting and supportive and made sure everyone treated me with respect. Because my chain of command was awaiting the conclusions of the Working Group on transgender service members that had been formed following Secretary Carter's order, no policy was yet available for them to follow.

17. In June of 2016, Secretary of Defense Ashton Carter announced that transgender people would be able to serve openly in the U.S. armed forces and that, starting on July 1, 2017, transgender people would be eligible to enlist in the military on equal terms with others.

18. I was completing summer school and summer training at the time and immediately emailed my Company Officer and asked if he had heard about the new policy or how it would be implemented at the Naval Academy. He did not have any information, but he said he would try to learn more and we scheduled a meeting for the start of the school year.

19. At that meeting, my Company Officer put me in touch with the Brigade Medical Officer (BMO) to begin the process of getting a diagnosis and a medical treatment plan.

20. In the fall of 2016, I met with the BMO. No guidelines for implementation of the new policy had been issued yet, but we knew the first step would be receiving an official diagnosis and an annotation in my medical record that transition was medically necessary. I scheduled an appointment with a psychiatrist and received both of those things.

21. Later that fall, the Navy issued a directive outlining the protocol for gender transition for service members, including midshipmen, as well as guidelines for the requirements that a transgender person would have to meet in order to be eligible to enlist. I met again with

the BMO and began discussing the rest of the process for my treatment plan. This involved many consultations with different medical professionals. I met multiple times with mental health care providers, an endocrinologist, and a plastic surgeon to develop my treatment plan.

22. The military's policy on accessions requires transgender individuals to have had eighteen months of stability in their gender identity prior to accession, meaning that everything in the treatment plan must be completed and a physician must certify that my transition is complete eighteen months before I can be commissioned. While all midshipmen are members of the military, we are still considered part of an accessions program since we do not receive our commission until graduation.

23. My treatment plan involves hormone therapy, top surgery, and real life experience. Once my doctor signs off that my treatment plan is complete, I can change the gender marker in the Defense Enrollment Eligibility Reporting System (DEERS), thus beginning the eighteen-month period of stability required for accessions.

24. Early on in the development of my treatment plan, during the winter of 2016-2017, the BMO and I started looking into how transitioning would impact my commissioning. We knew that approval and implementation of my plan would take many more months and that accessions happen immediately following graduation. Counting backward, we calculated that in order to have fully transitioned eighteen months prior to graduation (halfway through my junior year), I would need to take a year off from the academy.

25. I went through the standard medical and legal processes to request an official medical leave of absence from the Naval Academy. Working with the Transgender Care Team at Portsmouth's Naval Medical Center, we finalized the treatment plan.

26. At the end of this past school year, in May of 2017, the Commandant and Superintendent officially approved the medical transition plan and the request for a year-long medical leave of absence. I was the first midshipman to receive clearance to transition while enrolled at the Academy. Upon approval of this plan, I felt a huge sense of relief that I would not have to make a choice between two fundamental parts of my identity: being transgender and serving my country. I looked forward to graduating from the Academy and beginning my military service without having to hide who I am. Knowing that I could serve openly gave me confidence and hope for the future, and pride in our country and our Armed Forces.

27. During the month of June, I went on a regularly scheduled four-week summer training for midshipmen. Upon returning to the Naval Academy, I completed my leave paperwork. Two weeks after that I returned to North Carolina to begin my medical leave.

28. During my year of medical leave, in addition to receiving hormone therapy under the supervision of an endocrinologist, I intend to do everything I can to ensure that my return to the Naval Academy is successful and that I will be a valuable service member. I will keep in touch regularly with the Academy. I am interning at a law firm to gain professional experience. I am taking an EMT class in order to learn valuable skills, including how to save lives. I am completing a rigorous exercise and training regimen so that I will be able to meet the male fitness standards upon my return. I can already meet the male standards for push-ups and sit-ups and will be working hard on my run time. I am looking forward to returning to the Academy in the fall of 2018 and completing my education.

The July 2017 Tweet and the August 25, 2017 Memorandum

29. On July 26, 2017, the President tweeted that transgender service members would no longer be allowed to serve in the military “in any capacity.”

30. I first found out about the President's tweets through an email I received from one of my professors, offering comfort and support. Without asking what the email referred to, I Googled "transgender military." Then I saw the tweet.

31. I was devastated. The entire future I had planned for myself was crumbling around me, and I did not know what to do. To be told that you are less than, that you are not worthy, is a terrible feeling. Throughout the next few days I oscillated between anger at the unfairness of my situation and intense sadness at everything I was losing. I had a hard time focusing throughout the day. More than once I woke up crying.

32. Then, on August 25, 2017, I learned that President Trump issued a memorandum to the Secretary of Defense, directing him to reverse the policy permitting open service of transgender people.

33. When I came out as transgender I was relying on formal policies by the Navy and the Secretary of Defense that service members could no longer be separated or dismissed for being transgender, and that transgender persons would be eligible to enlist in the service provided they could demonstrate eighteen months of stability in their gender identity prior to accession. If the President's new ban means that these policies are not true, and if the new ban is permitted to stand, I will never be able to serve as a member of the Armed Forces. This causes me great distress, as the implications for my future are dire.

34. I am living in a state of uncertainty because I have not been able to obtain any assurances from my chain of command about my return to the Academy or my future military service. They have been silent because they have not known how the previously announced policies will change.

35. Now that the President has officially reversed the policy permitting open service, I am extremely concerned that I will not be permitted to remain at the Naval Academy.

36. Under the policy announced in the President's August 25, 2017 memorandum, I am ineligible to be commissioned as an officer in the Navy. If a midshipman becomes ineligible to be commissioned for any reason, they are no longer eligible to attend the Naval Academy. If that happens to me, I will suffer many different losses:

37. **Loss of Opportunity.** The Naval Academy provides incredible educational and professional development opportunities unparalleled at other institutions. We have access to travel experiences, study abroad programs, and unique internships, and of course we have the unique opportunity of beginning our professional careers by serving in the military after graduation. If I am removed from the Naval Academy, I will no longer have access to these opportunities, which cannot be replicated or even remotely approached by any civilian school.

38. **Loss of Connection to Military Network.** When one graduates with the prestigious degree that the Naval Academy provides, a connection is immediately forged to a unique network of academy alumni. From talking with fellow classmates and alumni, I understand this network is extremely valuable through the rest of your life, connecting you to others through this shared unique, intense, and rigorous experience. If I am removed from the Naval Academy, I will be deprived of access to this network of individuals of whom I long to be a part.

39. **Loss of Unique Academic and Leadership Opportunities.** The service academies are extremely selective and take less than 10% of applicants. Achieving admission is an impressive feat in and of itself. After enrollment, the courses are academically rigorous and demanding. The Naval Academy has some of the best programs in the nation in science,

technology, engineering, mathematics, and liberal arts. The Academies also have extremely high physical fitness standards, higher even than the rest of the military. This is a point of pride for Naval Academy attendees. Graduation from the academy carries with it a recognition of unique intellectual and physical prowess, as well as a commitment to military service. I am extremely proud of my enrollment and academic success at the Naval Academy. If I am removed from the Academy, I will lose not only the benefit of my hard work and dedication, but the unique academic and leadership opportunities that no civilian university can provide.

40. **Loss of Reputation and Prestige.** The prestige associated with the service academies is widely recognized throughout the military and civilian society. The feeling of immense pride I have when I wear the midshipman uniform in public is something I deeply treasure. The idea that I may be prohibited from returning to the Naval Academy and prohibited from wearing that uniform again leaves me deeply saddened. If I am not permitted to return to the Naval Academy, as the President's new policy states, I will be forever deprived of the irreplaceable regard and esteem that benefit graduates of the Naval Academy throughout their lives.

41. **Damage to Self-Perception.** The President's statements and reversal of the policy permitting open service have changed the way I view myself. To be told that I can't serve my country even though I am willing and extremely qualified is incredibly frustrating and demoralizing, especially when there are so many others who could choose to serve but don't. When the most powerful man in the world publicly announces that I am not worthy to serve based on a factor that has nothing to do with my ability, dedication, or performance, it is deeply painful, and it is a pain I will have to bear all my life if I am not allowed to return to the Naval Academy.

I declare under the penalty of perjury that the foregoing is true and correct.

DATED: August 28, 2017

Regan Kibby