

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

SARAH BLANCHETTE, Plaintiff,)	
)	
v.)	Civil Case No. 1:05-cv-183-JM
)	
SAINT ANSELM COLLEGE, Defendant.)	
)	

COMPLAINT AND JURY DEMAND

Plaintiff Sarah Blanchette brings this action against Saint Anselm College arising from the termination of her employment there because of sex in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

JURISDICTION

1. This Court has jurisdiction pursuant to 42 U.S.C. § 2000e-5(f).

PARTIES

2. Plaintiff Sarah Blanchette is 53 years of age and is a resident of New Hampshire. Until May 2004, and at all times during which she was employed by Saint Anselm College, the plaintiff was known as Robert Blanchette and presented as male. Therefore, in the section of this complaint describing facts prior to May 2004, the plaintiff is referred to in the masculine gender and as Robert Blanchette.

3. Defendant Saint Anselm College (the "College") is located at 100 Saint Anselm Drive, Manchester, New Hampshire, 03102-1310.

ADMINISTRATIVE PROCEDURES

4. The plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) on July 8, 2004.

5. Over 180 days have passed and no final agency decision has been issued. On March 11, 2005, the EEOC issued a "Notice of Right To Sue" entitling plaintiff to file a discrimination complaint within 90 days of receipt of the notice.

6. Plaintiff has satisfied all administrative prerequisites to institution of this action.

FACTS

7. Robert Blanchette was born and raised in New Hampshire where he attended high school and college. He is a veteran of our nation's armed forces, having served for four years in the 1970s as a Staff Sergeant in the United States Air Force stationed at bases in Utah and Illinois. After receiving an honorable discharge, Robert Blanchette returned to New Hampshire where he has worked for almost twenty-five years in the field of information technology. Robert Blanchette also served from 1988-2002 in the Civil Air Patrol in New Hampshire, an all-volunteer force that provides emergency search and rescue missions for downed aircraft. During this time he became a qualified Cadet Orientation Pilot, a qualified Mission Pilot and was the Director of Flight Operations for a number of years.

8. Robert Blanchette was an employee of the College for seven years from 1996 until he was unlawfully terminated on April 14, 2004. He worked as a

computer programmer and technical support specialist in the Department of Information Technology.

9. Robert Blanchette's job duties were largely the same for the duration of his employment at the College. He worked on all aspects of computer operations for the administrative offices of the College, such as the business office and the student records office. His duties included determining the information technology needs of administrative departments, designing computer systems, writing computer code, and testing and implementing new or modified computer systems. Robert Blanchette's job title at the time of his termination was Senior Programmer.

10. During the course of his tenure at the College, Robert Blanchette received praise for outstanding work. For example, on one occasion the Vice President of College Advancement wrote to "commend [him] on the great job that [he] did in converting the Alumni/Development Software System to Blackbaud's 'Raiser's Edge.'" On another occasion, the Director of Information and Technology praised Robert Blanchette's work on the Y2K conversion project, thanking him for his "hard work and dedication to the college" and noting "all the long hours, weekends, evenings that [he] gave up from [his] family to help the college move its administrative software into the year 2000."

11. Robert Blanchette was born biologically male. At all times during his employment at the College, Robert Blanchette dressed and appeared in a manner that is traditionally associated with males.

12. Robert Blanchette, however, struggled privately throughout much of his adult life with distress related to his gender identity. In May 2001, he started seeing a licensed psychologist and gender specialist and was subsequently diagnosed as having gender identity disorder (GID), meaning that although born male, Robert Blanchette has a female gender identity. The diagnosis was confirmed by the second opinion of another licensed psychologist.

13. Because the discordance between anatomical birth sex and gender identity causes significant psychological distress, the medical community has developed clear standards of care for the treatment of GID. These standards are known as the Harry Benjamin International Gender Dysphoria Association's Standards of Care for Gender Identity Disorder, Sixth Version (the "Harry Benjamin Standards"). The Harry Benjamin Standards provide that the appropriate course of treatment for GID may include the administration of hormone therapy, the "real-life experience" (the act of fully adopting a new gender role and presentation in everyday life), or surgery. The goal of treatment, according to the Harry Benjamin Standards, is "lasting personal comfort with the gendered self in order to maximize overall psychological well-being and self-fulfillment."

14. In September 2002, Robert Blanchette, working with an endocrinologist, his family physician, and a psychologist, began taking estrogen, as well as anti-androgen to block testosterone production, as part of the treatment of his GID. He also began a course of electrolysis and laser hair removal treatments.

15. Having successfully begun his treatment with hormone therapy and continuing to work with his health care providers, the next step of treatment for Robert Blanchette involved living and presenting as a woman full time.

16. On March 9, 2004, Robert Blanchette met with Adam Albina, the Director of the Department of Information at the College, and Patricia Schuster, Vice President for Administration at the College. Robert Blanchette presented each of them with a letter, attached as Exhibit A to this Complaint, explaining that he is a male to female transsexual individual, describing the nature of GID, and informing them that as part of his medical treatment, he would now be taking the necessary steps to “shift genders.” The letter indicated that he was sharing this information with Albina and Schuster in order to “work collaboratively to facilitate the transition to [his] new life” and ended by hoping that he would have their “support and understanding.”

17. At the meeting, Robert Blanchette indicated to Albina and Schuster that he identified with being a woman and wished to be a woman.

18. Robert Blanchette explained that he had begun taking estrogen and anti-androgen and was undergoing electrolysis in order to render his appearance and body more feminine.

19. Robert Blanchette also communicated to Albina and Schuster that pursuant to the medically prescribed protocol, it was now time for him to start living full time as a woman. He indicated that during his vacation he would be taking legal steps to start living his life as a woman and would be coming back to work as a woman.

20. Robert Blanchette told Schuster and Albina that upon his return from vacation in May, he would be adopting and expressing the appearance, attire, behaviors, and mannerisms traditionally associated with females, rather than the appearance, attire, behaviors and mannerisms traditionally associated with males.

21. Robert Blanchette indicated that when he returned from vacation, he would do so as Sarah Elizabeth Blanchette.

22. At this meeting, Robert Blanchette also provided Albina and Schuster with a letter from his psychotherapist, attached as Exhibit B to this Complaint, indicating that he would “begin living full-time as Sarah,” including at work.

23. As a result of their meeting, Albina and Schuster understood that after he returned from vacation, Robert Blanchette would be dressing and appearing in a manner traditionally associated with females, including that he may wear makeup, grow his hair long or wear a wig, and wear dresses, skirts, female-style blouses, female-style jewelry, and female-style shoes.

24. Schuster indicated to Robert Blanchette that she would have to discuss the matter with senior officers at the College before the College could make a decision about his future there. Upon information and belief, Schuster reported at the time to Marie George, Executive Vice President of the College, and Father Jonathan DeFelice, President of the College.

25. Upon information and belief, a biological female would not be terminated from the College after indicating that she identified as a woman, would adopt a female name, would take steps to live, appear and act in a manner

traditionally associated with females, or as a result of any of the other statements or disclosures made by Robert Blanchette at the March 9, 2004 meeting or in the letter attached as Exhibit A to this Complaint.

26. As a result of his statements and disclosures to Albina and Schuster described above, including but not limited to his statement that he intended to live as a woman and adopt the dress, attire, behaviors, and mannerisms traditionally associated with females, the College terminated Robert Blanchette's employment on April 14, 2004. A copy of the letter from the College to Robert Blanchette is attached as Exhibit C to this Complaint.

**COUNT I: SEX DISCRIMINATION IN VIOLATION OF
42 U.S.C. § 2000E-2**

27. The plaintiff realleges paragraphs 1-26 and incorporates them herein.

28. Plaintiff was at all times qualified for the position of computer programmer at the College.

29. The College discharged the plaintiff because of his sex in violation of 42 U.S.C. § 2000e-2. In so terminating the plaintiff's employment, the College treated him differently than a similarly situated woman.

30. As a direct result of the College's actions, plaintiff has suffered and will continue to suffer lost wages and other economic harm, as well as emotional pain and mental anguish.

JURY REQUEST

Plaintiff requests a trial by jury on all issues triable of right by jury.

REQUESTS FOR RELIEF

Wherefore, Plaintiff Sarah Blanchette requests that this Court:

1. Declare that the defendant has intentionally engaged in unlawful employment practices under Title VII and order such affirmative action as may be appropriate, including but not limited to enjoining the defendant and its agents, officers and employees from engaging in all practices found by this Court to be in violation of Title VII.
2. Order that the College reinstate plaintiff's employment.
3. Award plaintiff lost wages, benefits and front pay.
4. Award plaintiff compensatory and punitive damages and damages for mental anguish and emotional distress.
5. Order that defendants pay plaintiff's attorneys' fees and costs.
6. Order such other and further relief as the Court deems equitable and proper.

Respectfully submitted,

SARAH BLANCHETTE

By her attorneys

Bennett H. Klein*
Jennifer L. Levi*
Gay & Lesbian Advocates & Defenders
30 Winter Street, Suite 800
Boston MA 02108
Phone: (617) 426-1350
Fax: (617) 426-3594
* Pro Hac Vice Motions Pending

-and-

Jon Meyer
Backus, Meyer, Solomon & Branch, LLP
116 Lowell Street
Manchester, NH 03105
Phone: (603) 668-7272
Fax: (603) 668-0730

EXHIBIT A

Robert Blanchette's letter to his superiors at St. Anselm College

3/5/2004

I wish to share with you a very private aspect of myself that you do not know about. For the past two years I have been under the care of therapists and on medication for clinical depression. This depression has been caused primarily by a condition known as Gender Identity Dysphoria, which I have had for many years [most likely from birth]. This is a condition where my emotional and psychological gender is not in alignment with my genetic physiological sex. In other words, I am a male to female transsexual. It is a condition, which has caused my family and me an inexpressible degree of private grief. I have decided to take appropriate steps to deal with this situation.

Many individuals have very little knowledge of what a transsexual is, and lack even a basic language for talking about it. If you find this subject strange, or embarrassing, you should know that your reaction is not atypical. When most of us hear the word "Transsexual" we may envision what we have seen on shows such as Jerry Springer. I can assure you that a true "Transsexual" is not like that. All we want is to blend in with the general population and live our lives in a fulfilling manner, free of this inner turmoil.

Fortunately, transsexuality can be treated. Most of those who embark upon the journey of "transition" go on to live fulfilling and joyful lives. There is a well-established protocol for treating transsexuals, which has been adopted by the American Psychiatric Association and other mental health care professionals. This protocol is known as the "Benjamin Standards of Care," and it constitutes a rigorous set of procedures, ensuring that the patient is a proper and appropriate candidate for gender shift.

Carefully following the Benjamin Standards of Care, and under the care of a gender specialist, a clinical social worker, my family doctor, and an endocrinologist, I have begun taking the necessary steps to shift genders. This includes, among other things, a regimen of estrogen and anti-androgen therapy and electrolysis, which is rendering my appearance and my body more feminine.

Having gone through these initial steps of the treatment, it is now time for me to start living full time as a woman. This is referred to as a Real Life Test and will continue for at least a year. At the end of a year, if everything is going well I will undergo Reassignment surgery. I am currently scheduled for two weeks of vacation (May 17-31). During this time I plan to take all the legal steps necessary to start living my life as a woman. When I return to work after the Memorial Day holiday, I will do so as Sarah Elizabeth Blanchette.

I am no different now than I was before you started reading this letter except, that I feel relieved to have finally told you about it. My personality traits and emotions have been formed because of what I am mentally, not what I am physically. My job here at Saint Anselm is based on my mental skills not on physical ones. I enjoy my job here and I do not see any reason why I should not be able to continue doing the professional job that I have done for the last six and a half years. If anything I could possibly be more productive since a major cause of inner turmoil and unhappiness has been removed.

I would like for us to work collaboratively to facilitate the transition to my new life, with the minimum of disruption for Saint Anselm College, the Information Technology Department and myself. One of the ways that we might accomplish this is by keeping this disclosure to a need to know basis for upper management until the day before I leave for vacation, then having a department meeting with I.T. to make an announcement to them. Next, an email to the

3/5/2004

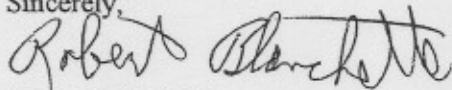
administrative staff might be in order, since I do interface with a number of them. Since I do not have contact with the Faculty and Students, it may not be necessary to inform them.

This decision is not one that I have made lightly. I am not doing this to embarrass anyone, nor to seek notoriety or cause disruption. I am doing this as a matter of survival. Rest assured that I will present myself in a professional and age appropriate manner. Like I mentioned above, I just want to disappear into the crowd, not stand out from it.

My parents, my wife and children and the handful of friends that know about me have been very supportive. Their reaction to my news has been remarkable in its compassion and understanding.

My journey in the coming months will require honesty and courage. I am hopeful that with your support and understanding, I will be able to complete it.

Sincerely,

A handwritten signature in cursive script that reads "Robert Blanchette". The signature is written in dark ink and is positioned above the printed name.

Robert Blanchette

Attch.

EXHIBIT B

Letter from Robert Blanchette's psychotherapist to St. Anselm College

Leanne McCall Tigert, DMin, PA
Tigert Psychotherapy and Consultation Services
18 N. Main St., # 203
Concord, NH 03301
603-224-1162, 603-224-1163(fax)
lmtigert@totalnetnh.net

March 3, 2004

re. Bob Blanchette

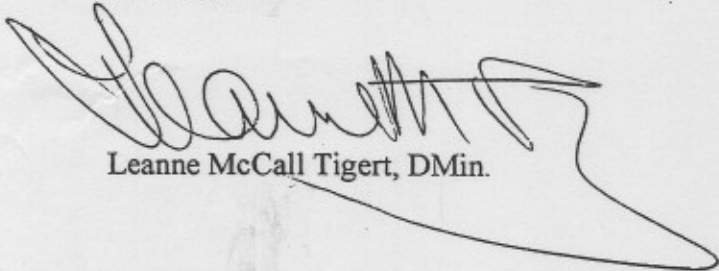
To Whom It May Concern:

I have been treating Bob (Sarah) Blanchette for Gender Identity Disorder for more than one year. The end result of treatment with appropriate clients is a full and complete transition from one gender to the other. This occurs within a fully supervised medical process including several health care practitioners.

Over the course of several months, Bob has been engaged in the transition to Sarah. At this point, it is time for him/her to begin living full-time as Sarah only. Thus, she needs to be living and working as Sarah rather than Bob. This transition is a fully appropriate medical model, without pathology.

I am aware this can be a difficult process at work and other environments. However, as Sarah's treating psychotherapist, I urge you to heed Bob/Sarah's request for support and change.

Sincerely,



Leanne McCall Tigert, DMin.

EXHIBIT C

Letter from Patricia R. Shuster, Vice President of St. Anselm College, to
Robert Blanchette

SAINT ANSELM

COLLEGE



VICE PRESIDENT FOR ADMINISTRATION

April 14, 2004

Delivered In Hand

Robert Blanchette

Dear Bob,

This letter is being provided to you at the conclusion of our meeting on April 14, 2004. As you know, you recently disclosed to senior college administration your transsexual status. Upon consideration, you are immediately relieved of your duties and will be placed on paid Administrative Leave for the remaining period of your current *Administrative Agreement* with the College, which expires on June 30, 2004. Thereafter, your *Agreement* will not be renewed and your employment with the College will terminate effective June 30, 2004.

Payment while you are on leave will be made in semi-monthly installments of less applicable taxes, and insurance co-payment deductions on the College's regular payday. You will receive payment for any accrued, unused vacation time on June 30, 2004. All payments will be made via direct deposit unless other arrangements are made.

To assist you in your employment transition, the College will provide you with outplacement services. Those services will be provided by the firm of Lee Hecht Harrison, at the College's expense, for up to 30 days. Should you wish to avail yourself of those services, please refer to the attached information.

In addition, should you elect an Extension of Health Insurance Benefits beginning on July 1, 2004, the College will pay the full premium cost of the plan in which you are currently enrolled for the months of July and August, 2004, provided that you do not have health insurance available to you from another source. You will receive written notification of your health benefit continuation rights in a separate letter, as we get closer to your final date of employment.

If it will be of assistance to you, you may resign from employment with the College, effective July 1, 2004. If you wish to resign, you must submit a letter of resignation to me by the close of business (4:30 p.m.) tomorrow. If you do not do so, your separation will be handled as non-renewal of *Agreement*.

The aforementioned transition assistance will be made available to you whether or not you choose to resign.

If we have not already done so, please make arrangements to return any college property. You should also contact me, or Jordan Crane, Director of Human Resources, to make arrangements for you to pick up any personal belongings at a mutually convenient date and time. If you plan on visiting the campus for any reason, during your administrative leave or thereafter, please notify me or Ms. Crane at least one day in advance.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Patricia R. Shuster".

Patricia R. Shuster
Vice President for Administration