

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO, et al.,

Plaintiffs,

v.

PATRICK MCCRORY, et al.,

Defendants.

No. 1:16-cv-00236-TDS-JEP

DECLARATION OF SARAH PRESTON

1. I am the Acting Executive Director of the American Civil Liberties Union of North Carolina (“ACLU-NC”).
2. The ACLU-NC is the North Carolina state affiliate of the American Civil Liberties Union. Our affiliate was founded in 1965 and, though it is based in Raleigh, works throughout the state of North Carolina.
3. The ACLU-NC is a nonprofit, nonpartisan membership organization, heavily reliant on our members for financial support. At present, our affiliate has approximately 9,000 members throughout the state of North Carolina.
4. The ACLU-NC’s mission is to preserve and defend the guarantees of individual liberties found in the North Carolina Constitution and the United States Constitution.

5. The work of the ACLU-NC is overseen by our Board of Directors. Every five years the Board of Directors establishes our affiliate's priorities through a strategic plan. Our current strategic plan prioritizes work in the following subject matter areas: privacy rights, women's rights, racial justice/immigrant rights, and LGBT (lesbian, gay, bisexual, and transgender) rights.
6. The ACLU-NC strives to realize its mission and strategic priorities through public education and public policy advocacy. The ACLU-NC Legal Foundation (ACLU-NCLF) is the 501(c)(3) arm of ACLU-NC that coordinates and carries out our legal work, including litigation.
7. To aid in those efforts, the ACLU-NC encourages its members and North Carolina residents to contact our office if they feel their civil liberties or civil rights have been violated. ACLU-NC often receives telephonic intake. Our website also features a prominent link at the top of the page entitled "Ask for Legal Help." Clicking on that link takes a website visitor to a webpage further explaining our work as well as providing links to complaint forms. Website visitors are then asked to provide further information about themselves, the purpose of their request, the incident that led them to seek assistance, and whether they already have legal representation. Telephonic and website intake is directed first to ACLU-NCLF and, based on its content, referred from there to the appropriate department within the affiliate.

8. Given our mission and current strategic plan, the ACLU-NC supported and advocated for Charlotte, North Carolina to adopt a local non-discrimination ordinance inclusive of the LGBT community.
9. Given our mission and current strategic plan, the ACLU-NC opposed the adoption of the so-called “Public Facilities Privacy and Security Act” (“H.B. 2”). These efforts included public education regarding its negative impacts on the LGBT community, working with our members to lobby members of the North Carolina General Assembly to oppose this legislation during the March 23, 2016 emergency legislative session, and sending Governor Patrick McCrory a letter asking him to veto H.B. 2. We also asked Governor McCrory to meet with transgender students and youth, including ACLU-NC members, before signing H.B. 2. After Governor McCrory signed the legislation, we have engaged and will continue to engage in public education work relating to H.B. 2 and its negative impacts on the LGBT community. ACLU-NCLF has also partnered with allied organizations to challenge the constitutionality and legality of H.B. 2 in *Carcaño, et al. v. McCrory, et al.*
10. In the days preceding, during, and subsequent to the emergency March 23, 2016 legislative session, our affiliate received dozens of intakes via telephone as well as our website from LGBT North Carolinians or the parents of LGBT youth living in North Carolina concerned about and/or harmed by H.B. 2. Our affiliate received intakes from LGBT North Carolinians and the parents of LGBT youth living in North Carolina who are members of ACLU-NC as well as from LGBT North

Carolínians and the parents of LGBT youth living in North Carolina who are not members of ACLU-NC.

11. Many of the individuals who contacted our office during this time period did not wish to publicly share how H.B. 2 had harmed them or their children out of fear that, as a result, they or their children would suffer harassment or discrimination. This group included the parents of students in the K-12 public school system in North Carolina.
12. Below are three stories of harm caused by H.B. 2. These stories help to exemplify the harms associated with H.B. 2 that North Carolínians and the parents of North Carolínians have reported to our office.
13. Stephen Clark and his daughter, I.C., live in the small town of Highlands, North Carolina, which is located in Macon County. Mr. Clark and I.C. are both members of the ACLU-NC.
14. I.C. is a 10-year old transgender girl. Her sex assigned at birth was male. She has since transitioned from male to female. She has been diagnosed with gender dysphoria and is currently receiving treatment at the Duke Center for Child and Adolescent Gender Care. As part of her transition, I.C. identifies and lives as a girl. She has changed the name on her birth certificate to reflect the traditionally feminine first name she chose. She dresses in a more traditionally feminine fashion. She is perceived as a girl based on her physical appearance.
15. However, I.C.'s North Carolina birth certificate lists her gender as "male" because, as a minor, she cannot fulfill the onerous surgical requirements to change

the gender listed on her birth certificate. Accordingly, H.B. 2 requires that she use the male restroom in public buildings.

16. I.C. attended Highlands School, a small K-12 public school with approximately 270 students in Macon County, until 2015. She is now home-schooled by her parents due, in part, to the bullying she suffered at the hands of classmates because she is transgender.
17. Much of the bullying I.C. suffered revolved around her use of the restroom at the school. Boys would confront I.C. when she used the boys' restroom at school, asking "what are you doing in here?"
18. On one occasion, a teacher chastised I.C. for going into the girls' restroom. Later that day the assistant principal pulled her out of class in front of the other students to talk about the incident. This humiliated I.C.
19. Highlands School required that I.C. use the teachers' restroom at her school. This made her stand out from her classmates and was a reminder to her that she is "different." For example, classmates would make bullying comments to her when she used the teachers' restroom. As a result, she would often go all day without using the restroom at school.
20. Mr. Clark does not know if I.C. will ever return to Highlands School as it was a stressful environment for her. Much of this stress centered on her use, or lack thereof, of restroom facilities.
21. Prior to the passage of H.B. 2, I.C. used the women's restroom exclusively in any public facility or business, without causing any disruption.

22. I.C. is aware of H.B. 2 and its implications for the transgender community. H.B. 2 has heightened her sensitivity surrounding using the restroom in public. When I.C. is outside the house, she will attempt to avoid using the restroom even when it is necessary for her to use it. This is especially the case if her mother is not there to go into the restroom with her. Restroom access is something she and her family have to deal with on a daily basis.
23. H.B. 2 is another reminder to I.C. that she is “different,” placing the fact that she is transgender at the forefront of her mind day in and day out. She is worn down by all of the attention it has received.
24. Charlie Wright is a 20-year old rising senior at the University of North Carolina-Greensboro (“UNC-G”). He lives in Greensboro during the school year and with his family in Asheville during the summer when he is not taking classes. Mr. Wright is a member of the ACLU-NC.
25. Mr. Wright’s sex assigned at birth was female. He has since transitioned from female to male. Mr. Wright fully identifies as a young man. Prior to the passage of H.B. 2, he lived as a young man in all aspects of his life. This included going by the more traditionally masculine name of Charlie and dressing and styling his hair in a traditionally masculine fashion. In addition, prior to the passage of H.B. 2, Charlie exclusively utilized male restrooms on campus, in public facilities off campus, and in private businesses, without causing any disruption.
26. However, Mr. Wright’s North Carolina birth certificate lists his sex as “female” given that he has not fulfilled the onerous surgical requirements to change his

gender marker. Accordingly, H.B. 2 requires that he use the female restroom on the campus of UNC-G and in other public buildings.

27. Mr. Wright attempts not to use the restroom when he is on campus and instead waits until he is back at his dorm room. In cases of emergency, Mr. Wright will use the women's room on campus. Although this is what H.B. 2 mandates he do, he will only utilize the women's room when accompanied by a non-transgender female friend as he fears he might be challenged utilizing this restroom given his gender identity and expression.
28. The adoption of H.B. 2 makes Mr. Wright concerned about his safety. Further, the fact that the UNC system is abiding by the dictates of H.B. 2 has made him feel it does not care about his safety and the safety of other transgender students.
29. Lisa Lawson is a 65-year old transgender woman living in Elon, North Carolina. Ms. Lawson is a veteran of the Vietnam War and currently works as a database developer for a small company in Burlington, North Carolina. Ms. Lawson is a member of the ACLU-NC.
30. Ms. Lawson has undergone hormone therapy at Duke University Medical Center since 1999. She has lived openly as a woman since 2000. This includes changing her name to Lisa on her birth certificate and only utilizing women's restrooms when in public. She had no problems utilizing the women's room in public until the passage of H.B. 2.
31. Ms. Lawson is also currently taking steps to undergo gender confirmation surgery. Her understanding is that she cannot have the gender marker on her Virginia birth

certificate changed to reflect her gender identity until she undergoes that surgery. Accordingly, H.B. 2 requires her to use the men's room or break the law.

32. Ms. Lawson generally utilizes restrooms in public facilities two to three times a week. Since the passage of H.B. 2, this has become an exceptionally stressful process for Ms. Lawson. Given her female gender identity and expression, she feels she cannot use the men's room and is afraid to do so. She knows she is breaking the law by using the women's room in public facilities, however. She will accordingly observe any public restroom very carefully before utilizing it. In particular, if she sees a law enforcement officer in the vicinity then she will forego using the restroom and seek out another women's room that she could utilize.
33. ACLU-NC brought this lawsuit because of H.B. 2's significant infringement on the dignity, liberty, and privacy of its transgender members and on the LGBT community generally, equities central to our mission and current strategic plan. I have worked at ACLU-NC for more than 9 years. H.B. 2 has resulted in more intake contacts from and reported harm to North Carolinians than any other piece of legislation adopted in the state during my tenure with ACLU-NC.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 15 of May, 2016.


Sarah Preston