

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

JANE DOE 1 *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP *et al.*,

Defendants.

Civil Action No. 17-cv-1597 (CKK)

DECLARATION OF ROBERT B. CHADWICK
(Relating to Midshipman Second Class Regan V. Kibby)

I, CAPTAIN ROBERT B. CHADWICK, UNITED STATES NAVY, do hereby state and declare as follows::

1. I am a Captain serving on active-duty in the United States Navy and currently assigned as Commandant of Midshipmen at the United States Naval Academy (USNA) in Annapolis, Maryland. I have served on active duty for twenty-six years, most recently commanding Destroyer Squadron 21. I make this declaration based on my personal knowledge and on information provided to me in the course of my official duties. I submit this declaration in support of the defendants' motion to dismiss the above-captioned action and in opposition to the plaintiffs' motion for a preliminary injunction. In particular, I address below the current status of plaintiff Midshipman (MIDN) Second Class Regan V. Kibby.
2. Based on my current position and past experience, I am familiar with the Department of the Navy's policies and regulations regarding accession and retention requirements, including those found in Department of Defense (DoD) Instruction 6130.03, Chief of Naval Operations Instruction (OPNAVINST) 3110.1J, USNA Instruction 1531.49B, and USNA Director of Athletics Instruction 6100.1; policies and regulations relating to service by transgender

individuals, including DoD Instruction 1300.28; ALNAV 053/16; and the Secretary of Defense's Interim Guidance issued on 14 September 2017.

3. Midshipman (MIDN) Second Class Regan V. Kibby is currently enrolled at USNA, and is on a medical leave of absence. MIDN Kibby's official files at USNA and in the Defense Enrollment Eligibility Reporting System (DEERS) currently identify MIDN Kibby as female. For the remainder of this declaration, I will refer to MIDN Kibby using male pronouns, which correspond to MIDN Kibby's gender identity.
4. In my role as Commandant of Midshipmen, I am responsible for the professional development and day-to-day activities of all midshipmen in the Brigade of Midshipmen. MIDN Kibby's leave of absence was approved by the Superintendent prior to my arrival at USNA. However, based on the information I received from my predecessor and support staff during turnover, my review of MIDN Kibby's leave of absence request, and his personnel records at USNA, I am aware of MIDN Kibby's history at USNA; his current status; and his plans for his gender transition, program of study at USNA, and eventual service as a Naval Officer. I am further aware that MIDN Kibby was afforded much support from the Brigade Medical Unit, his chain of command, and my legal advisors in developing his plan and submitting his request.
5. MIDN Kibby was inducted into USNA on 1 July 2015. He first notified USNA of his transgender status through his company officer during the 2016 spring semester, which was during his first year of his four-year course of study.
6. Upon induction to USNA, all midshipman sign an agreement (USNA BBA 1531/178) outlining their statutory service obligations incurred as a result of their attendance at USNA. Pursuant to 10 U.S.C. §§ 2005, 6959 and SECNAVINST 1531.4, midshipmen who enter USNA directly from a civilian status do not incur a future service or financial obligation during

their first two years at USNA. Upon graduation from USNA, midshipmen who are offered a commission must accept that commission and normally serve on active duty for at least five years. Any USNA graduate who does not fulfill this obligation may be required to reimburse the Government for the cost of the educational benefits received at USNA. Similarly, once a midshipman begins the third academic year of study at USNA, that midshipman may be ordered to active duty in an enlisted status for at least two years if the midshipman resigns or is disenrolled from USNA. If that midshipman is disqualified, unfit, or unsuited for enlisted military service, the midshipman may be required by the Secretary of the Navy to reimburse the Government for the cost of the educational benefits received at USNA. However, the Superintendent of USNA may request that the Secretary of the Navy waive any obligations resulting from a midshipman's voluntary or involuntary disenrollment after incurring an obligation. Additionally, when a midshipman is involuntarily disenrolled from USNA due to a medical condition or otherwise unable to fulfill their service obligation because of the same, reimbursement is not required.

7. Because MIDN Kibby has not begun his third year of study at USNA, he has incurred neither a service obligation nor a financial obligation.
8. After disclosing his transgender status and after the release of DoD Instruction 1300.28 on 30 June 2016, MIDN Kibby began meeting with medical personnel and USNA administrators to plan his gender transition.
9. MIDN Kibby completed his plan and submitted it for approval on 25 April 2017. On 22 May 2017, the Superintendent approved MIDN Kibby's transition and leave of absence request, and that transition plan remains in place.

10. Under the terms of the approved plan, MIDN Kibby began a medical leave of absence in late June 2017. This date was requested and approved in order to allow MIDN Kibby to complete his summer training in 2017. The purpose of the leave is to allow MIDN Kibby to undergo hormone treatment, and to a period of gender stability of sufficient length under current policy and guidance to ensure his eligibility to accept a commission in May 2020 if he successfully completes the course of instruction upon returning to USNA.
11. The transition-related medical treatment currently being provided to MIDN Kibby is at DoD expense. I am not aware of any interruption in MIDN Kibby's care during his medical leave.
12. The medical leave of absence is scheduled to last for eleven months, and to end in May of 2018.
13. In accordance with the approved plan, when MIDN Kibby again resumes his studies at the USNA, his official gender marker will remain female. Once MIDN Kibby's gender transition is officially complete, he may request to have his gender marker in DEERS changed. According to the plan, this request will be made in November 2018.
14. Once MIDN Kibby's gender marker is changed to male in DEERS, he will be subject to the male physical fitness standards found in OPNAVINST 3110.1J and USNA Director of Athletics Instruction 6100.1.
15. The USNA male physical fitness standards require a body fat percentage of 22% or less, and require that a midshipman complete at least 65 curl-ups (sit-ups) in two minutes, 45 push-ups in two minutes, and a one and a half mile run in ten minutes and thirty seconds or less. By comparison, the USNA female standards require a body fat percentage of 33% or less, and the completion of at least 65 curl-ups in two minutes, 20 push-ups in two minutes, and a one and a

half mile run in twelve minutes and forty seconds or less. Meeting these minimum requirements is prerequisite to graduation.

16. In addition to meeting these physical fitness standards, satisfactory completion of a defined course of study with certain minimum scores, achieving passing scores in military performance, and being satisfactory in honor and conduct are all prerequisite to graduation from USNA. Once a midshipman is graduated, he or she must accept a commission in the Navy or Marine Corps if one is offered. Commissions are offered to graduates who meet the prerequisites of the individual branch of service, which are a matter of the policies in place at the time of commissioning.
17. Under MIDN Kibby's current transition plan, and due to his current medical leave of absence, the earliest that he will be eligible to accept a commission is May of 2020.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed this ~~20~~²⁹th day of September 2017, Annapolis, Maryland.



ROBERT B. CHADWICK
Captain, U.S. Navy