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19 *Jane Doe, and Equality California*

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 AIDEN STOCKMAN; NICOLAS
TALBOTT; TAMASYN REEVES;
23 JAQUICE TATE; JOHN DOES 1-2;
24 JANE DOE; and EQUALITY
CALIFORNIA,

25 Plaintiffs,

26 v.

27 DONALD J. TRUMP, et al.

28 Defendants.

CASE NO. 5:17-cv-01799-JGB-KKx

**DECLARATION OF BRAD R.
CARSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

1 I, Brad Rogers Carson, declare as follows:

2 1. I served as the Acting Under Secretary of Defense for Personnel and
3 Readiness (“USD P&R”) from April 2, 2015 to April 8, 2016. In that capacity, and
4 at the direction of the Secretary of Defense, I led a group of senior personnel
5 drawn from all of the armed services to develop, over many months of information
6 collection and analysis, a Department-wide policy regarding service by transgender
7 people, all as more fully described below.

8 **Professional Background**

9 2. I attended Baylor University and obtained an undergraduate degree in
10 history in 1989. After college, I attended Trinity College in Oxford, England on a
11 Rhodes Scholarship and earned a Master’s degree in Politics, Philosophy, and
12 Economics. When I returned to the United States, I attended the University of
13 Oklahoma College of Law, graduating with a law degree in 1994.

14 3. After I graduated law school, I practiced as an attorney at the law firm
15 Crowe & Dunlevy. From 1997 to 1998, I served as a White House Fellow, where I
16 worked as a Special Assistant to the Secretary of Defense. From 2001 to 2005, I
17 served in Congress as the Representative for the State of Oklahoma’s 2nd District.

18 4. In addition to my civilian career, I am also a commissioned officer in
19 the United States Navy Reserve. I currently serve in the Individual Ready Reserve.
20 I deployed to Iraq in 2008 as Officer-in-Charge of intelligence teams embedded
21 with the U.S. Army’s 84th Explosive Ordnance Disposal Battalion. In Iraq, our
22 teams were responsible for investigation of activities relating to improvised
23 explosive devices and the smuggling of weapons and explosives. For my service
24 in Iraq, I was awarded the Bronze Star Medal and other awards.

25 5. I have held several leadership positions within the Department of
26 Defense (“DoD”). In 2011, I was nominated by the President to serve as General
27 Counsel to the United States Army and unanimously confirmed by the U.S. Senate.
28 As General Counsel, my duties included providing legal advice to the Secretary,

1 Under Secretary, and Assistant Secretaries of the Army regarding the regulation
2 and operation of the U.S. Army. I also assisted in the supervision of the Office of
3 the Judge Advocate General. I served as General Counsel to the United States
4 Army until March 2014.

5 6. In late 2013, while serving in that position, I was nominated by the
6 President to serve as Under Secretary of the Army. I was unanimously confirmed
7 by the U.S. Senate in February 2014 and sworn in on March 27, 2014. As Under
8 Secretary of the Army, I was the second ranking civilian official in the Department
9 of the Army. My responsibilities included the welfare of roughly 1.4 million
10 active and reserve soldiers and other Army personnel, as well as a variety of
11 matters relating to Army readiness, including oversight of installation management
12 and weapons and equipment procurement. With the assistance of two Deputy
13 Under Secretaries, I directly supervised the Assistant Secretaries of the Army for
14 Manpower and Reserve Affairs; Acquisition, Logistics and Technology; Financial
15 Management and Comptroller; Installations, Energy and Environment; and Civil
16 Works. My responsibilities involved the management and allocation of an annual
17 budget amounting to almost \$150 billion.

18 7. I was appointed by the President to serve as acting USD P&R in April
19 2015. In that capacity, I functioned as the principal staff assistant and advisor to
20 the Secretary and Deputy Secretary of Defense for Total Force Management with
21 respect to readiness; National Guard and Reserve component affairs; health affairs;
22 training; and personnel requirements and management, including equal
23 opportunity, morale, welfare, recreation, and quality of life matters. My
24 responsibilities over these matters extended to more than 2.5 million military
25 personnel.

26 **Development of Policy Regarding Transgender Service Members**

27 8. On July 28, 2015, then-Secretary of Defense Ashton B. Carter ordered
28 me, in my capacity as USD P&R, to convene a working group to formulate policy

1 options for DoD regarding transgender service members (the “Working Group”).
2 Secretary Carter ordered the Working Group to present its recommendations
3 within 180 days. In the interim, transgender service members were not to be
4 discharged or denied reenlistment or continuation of service on the basis of gender
5 identity without my personal approval. A true and accurate copy of the July 28,
6 2015 order is attached hereto as Exhibit A.

7 9. The Working Group included roughly twenty-five members. Each
8 branch of military service was represented by a senior uniformed officer (generally
9 a three-star admiral or general), a senior civilian official, and various staff
10 members. The Surgeons General and senior representatives of the Chaplains for
11 each branch of service also attended the Working Group meetings.

12 10. The Working Group formulated its recommendations by collecting
13 and considering evidence from a variety of sources, including a careful review of
14 all available scholarly evidence and consultations with medical experts, personnel
15 experts, readiness experts, health insurance companies, civilian employers, and
16 commanders whose units included transgender service members.

17 **The Findings of the RAND Report**

18 11. On behalf of the Working Group, I requested that RAND, a nonprofit
19 research institution that provides research and analysis to the Armed Services,
20 complete a comprehensive study of the health care needs of transgender people,
21 including potential health care utilization and costs, and to assess whether allowing
22 transgender service members to serve openly would affect readiness.

23 12. In 2016, RAND presented the results of its exhaustive study in a
24 report entitled Assessing the Implications of Allowing Transgender Personnel to
25 Serve Openly (the “RAND Report”), a true and accurate copy of which is attached
26 as Exhibit B.

27 13. The RAND Report explained that according to the American
28 Psychiatric Association, the term transgender refers to “the broad spectrum of

1 individuals who identify with a gender different from their natal sex.” The RAND
2 Report also explained that “transgender status alone does not constitute a medical
3 condition,” and that “only transgender individuals who experience significant
4 related distress are considered to have a medical condition called gender dysphoria
5 (GD).” For those individuals, the recognized standard of care includes some
6 combination of psychosocial, pharmacological, and/or surgical care. “Not all
7 patients seek all forms of care.” “While one or more of these types of treatments
8 may be medically necessary for some transgender individuals with GD, the course
9 of treatment varies and must be determined on an individual basis by patients and
10 clinicians.”

11 14. The RAND Report evaluated the capacity of the military health
12 system (MHS) to provide necessary care for transgender service members. The
13 RAND Report determined that necessary psychotherapeutic and pharmacological
14 care are available and regularly provided through the MHS, and that surgical
15 procedures “quite similar to those used for gender transition are already performed
16 within the MHS for other clinical indications.” In particular, the MHS already
17 performs reconstructive surgeries on patients who have been injured or wounded in
18 combat. “The skills and competencies required to perform these procedures on
19 transgender patients are often identical or overlapping.” In addition, the RAND
20 Report noted that “performing these surgeries on transgender patients may help
21 maintain a vitally important skill required of military surgeons to effectively treat
22 combat injuries.”

23 15. The RAND Report also examined all available actuarial data to
24 determine how many transgender service members are likely to seek gender
25 transition-related medical treatment. The RAND Report concluded that “we
26 expect annual gender transition-related health care to be an extremely small part of
27 overall health care provided to the AC [Active Component] population.”
28

1 16. The RAND Report similarly concluded that the cost of extending
2 health care coverage for gender transition-related treatments is expected to be “an
3 exceedingly small proportion of DoD’s overall health care expenditure.”

4 17. The RAND Report found no evidence that allowing transgender
5 people to serve openly would negatively impact unit cohesion, operational
6 effectiveness, or readiness.

7 18. The RAND Report found that the estimated loss of days available for
8 deployment due to transition-related treatments “is negligible.” Based on estimates
9 assuming the highest utilization rates, it concluded that the number of
10 nondeployable man-years due to gender transition-related treatments would
11 constitute 0.0015 percent of all available deployable labor- years across both the
12 Active Component and Select Reserves.

13 19. The RAND Report also found no evidence that permitting openly
14 transgender people to serve in the military would disrupt unit cohesion. The
15 RAND Report noted that while similar concerns were raised preceding policy
16 changes permitting open service by gay and lesbian personnel and allowing women
17 to serve in ground combat positions, those concerns proved to be unfounded. The
18 RAND Report found no evidence to expect a different outcome for open service by
19 transgender persons.

20 20. The RAND Report examined the experience of eighteen other
21 countries that permit open service by transgender personnel—including Israel,
22 Australia, the United Kingdom, and Canada. The Report found that all of the
23 available research revealed no negative effect on cohesion, operational
24 effectiveness, or readiness. Some commanders reported that “increases in diversity
25 led to increases in readiness and performance.”

26 21. The Rand Report also identified significant costs associated with
27 separation and a ban on open service, including “the discharge of personnel with
28 valuable skills who are otherwise qualified.”

Issues Considered by the Working Group

1
2 22. The Working Group sought to identify and address all relevant issues
3 relating to service by openly transgender persons, including deployability. In
4 addition to taking into consideration the conclusions of the RAND Report, the
5 Working Group discussed that while some transgender service members might not
6 be deployable for short periods of time due to their treatment, this is not unusual,
7 as it is common for service members to be non-deployable for periods of time due
8 to medical conditions such as pregnancy, orthopedic injuries, obstructive sleep
9 apnea, appendicitis, gall bladder disease, infectious disease, and myriad other
10 conditions. For example, the RAND Report estimated that at the time of the
11 report, 14 percent of the active Army personnel—or 50,000 active duty soldiers—
12 were ineligible to deploy for legal, medical, or administrative reasons.

13 23. The Working Group also addressed the psychological health and
14 stability of transgender people. In addition to taking into account the conclusions
15 of the RAND Report, the Working Group concluded, based on discussions with
16 medical experts and others, that being transgender is not a psychological disorder.
17 While some transgender people experience gender dysphoria, that condition is
18 resolved with appropriate medical care. In addition, the Working Group noted the
19 positive track record of transgender people in civilian employment, as well as the
20 positive experiences of commanders with transgender service members in their
21 units.

22 24. The Working Group also concluded that transgender service members
23 would have ready access to any relevant necessary medication while deployed in
24 combat settings. It determined that military policy and practice allows service
25 members to use a range of medications, including hormones, while in such
26 settings. The MHS has an effective system for distributing prescribed medications
27 to deployed service members across the globe, including those in combat settings.

28

1 30. In addition to contravening the Working Group’s conclusions and the
2 exhaustive supporting evidence that was collected, I believe that prohibiting
3 transgender individuals from serving openly in the military is harmful to the public
4 interest for several reasons. My belief is based on my experience as USD P&R
5 and in other leadership positions within DoD, and upon my active duty experience
6 in Iraq.

7 31. First, a prohibition on service by openly transgender individuals
8 would degrade military readiness and capabilities. Many military units include
9 transgender service members who are highly trained and skilled and who perform
10 outstanding work. Separating these service members will deprive our military and
11 our country of their skills and talents.

12 32. Second, banning military service by openly transgender persons
13 would impose significant costs that far outweigh the minimal cost of permitting
14 them to serve. A study authored in August 2017 by the Palm Center and
15 professors associated with the Naval Postgraduate School estimated that separating
16 transgender service members currently serving in the military would cost \$960
17 million, based on the costs of recruiting and training replacements. A true and
18 correct copy of the August 2017 Palm Center study is attached hereto at Exhibit C.

19 33. Third, the sudden and arbitrary reversal of the DoD policy allowing
20 openly transgender personnel to serve will cause significant disruption and thereby
21 undermine military readiness and lethality. This policy bait-and-switch, after
22 many service members disclosed their transgender status in reliance on statements
23 from the highest levels of the chain of command, conveys to service members that
24 the military cannot be relied upon to follow its own rules or maintain consistent
25 standards.

26 34. Fourth, in addition to the breach of transgender service members’ trust
27 resulting in the deprivation of their careers and livelihood, the President’s policy
28 reversal will cause other historically disadvantaged groups in the military,

1 including women and gay and lesbian service members, to question whether their
2 careers and ability to serve as equal members of the military may also be
3 sacrificed.

4 35. Fifth, those serving in our Armed Forces are expected to perform
5 difficult and dangerous work. The President's reversal of policy puts tremendous
6 additional and unnecessary stress on transgender service members, their command
7 leaders, and those with whom they serve.

8 36. In short, the President's reversal of the policy permitting military
9 service by openly transgender individuals has had, and will continue to have, a
10 deleterious effect on readiness, force morale, and trust in the chain of command in
11 the Armed Services.

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

Dated: September 25, 2017

By 
Brad R. Carson