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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 DEBORAH  
 LEE JAMES IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR  
 PRELIMINARY INJUNCTION**

1 I, Deborah Lee James, declare as follows:

2 **Background and Experience**

3 1. I served as the Secretary of the United States Air Force (“USAF”)  
4 from December 20, 2013 to January 20, 2017.

5 2. I hold a Bachelor’s Degree in Comparative Area Studies from Duke  
6 University (1979), and a Master’s Degree in International Affairs from Columbia  
7 University (1981). From 1983 until 1993, I worked as a professional staff member  
8 for the Armed Services Committee of the United States House of Representatives,  
9 including as a senior advisor to the Subcommittee for Military Personnel and  
10 Compensation. From 1993 to 1998, I served as Assistant Secretary of Defense for  
11 Reserve Affairs, responsible for advising the Secretary of Defense on all matters  
12 pertaining to roughly 1.8 million National Guard and Reserve personnel. I then  
13 held a variety of senior positions at Science Applications International Corporation  
14 (SAIC), including as President of the Technical and Engineering Sector overseeing  
15 more than 8,000 employees.

16 3. As Secretary of the USAF, I functioned as the chief executive of the  
17 Department of the Air Force, with the authority to conduct all of its affairs, subject  
18 to the authority, direction, and control of the Secretary of Defense. As Secretary, I  
19 had comprehensive oversight responsibility for (i) the Department of the Air  
20 Force’s annual budget, (ii) overseeing the organization, training, supplying,  
21 equipping and mobilization of USAF personnel, and (iii) overseeing the  
22 construction and maintenance of military equipment, buildings, and structures. In  
23 connection with my personnel-related oversight responsibilities, I administered the  
24 development and implementation of recruitment, retention, and medical policies  
25 for active duty and reserve USAF personnel. Among the people who directly  
26 reported to me was the Chief of Staff of the USAF, the most senior uniformed  
27 USAF officer.

28

**The Air Force**

1  
2 4. The USAF is the aerial warfare service branch of the United States  
3 Armed Forces. It is one of the three military departments of the Department of  
4 Defense (“DoD”). The USAF, with an annual budget of more than \$139 billion,  
5 operates thousands of military and surveillance aircraft and controls hundreds of  
6 intercontinental ballistic missiles and military satellites. It employs over 600,000  
7 Airmen and civilian employees. The USAF, including the Air Force Reserve and  
8 Air National Guard, operates over 300 flying squadrons, consisting of 8 to 24  
9 aircraft each, worldwide. Air Force bases are located across the United States and  
10 span the globe.

11 5. The USAF has several core missions. First, it ensures American  
12 superiority in air and space across the globe. This superiority protects all of our  
13 other armed services from air attack during their operations. Second, the USAF is  
14 responsible for intelligence, surveillance, and reconnaissance, a function that is  
15 also essential to the integrated operation of the Armed Forces. Third, it is also a  
16 core mission to enable rapid global mobility. The USAF projects American power  
17 rapidly across the face of the earth and enables swift deployment as well as the  
18 ability to sustain operations by delivering essential equipment, supplies, and  
19 personnel. Fourth, the USAF has its global strike capabilities as an essential  
20 mission. The ability to strike globally underlies our deterrence; the USAF’s  
21 combat capabilities allow it to threaten, disable, or destroy any target around the  
22 globe. Lastly, the USAF is also charged with command and control. It provides  
23 access to reliable communications and information networks so that the military  
24 services as a whole can operate jointly in a coordinated fashion globally and at a  
25 high level of intensity.

26 6. The USAF is one of the most technologically sophisticated  
27 organizations on the planet, dwarfing the technological capabilities of individual  
28 companies in the private sector. Our aircraft, spacecraft, weapons, and

1 surveillance equipment contain the most advanced new technologies devised by  
2 human ingenuity. Many USAF personnel train for years to function effectively in  
3 the USAF. Recruitment and retention of capable and qualified Airmen is of  
4 critical importance to the readiness of the USAF.

5 **Change and Development of DoD Policy**

6 7. By 2014, it had become clear that the United States Armed Service,  
7 including the USAF, had valued members who were transgender with specialized  
8 skills. Starting in 2014, the DoD took steps to consider military policy concerning  
9 the open service of transgender service members against the backdrop of the  
10 military's critical need for qualified personnel.

11 8. In August 2014, the Department of Defense issued a new regulation,  
12 DODI 1332.18, *Disability Evaluation System (DES)*. The regulation eliminated a  
13 department-wide list of conditions that would disqualify persons from retention in  
14 military service, including the categorical ban on open service by transgender  
15 persons. This new regulation instructed each branch of the Armed Forces to  
16 reassess whether disqualification based on these conditions, including the ban on  
17 service by transgender persons, was justified. As of August 2014, there was no  
18 longer a department-wide position on whether transgender persons should be  
19 disqualified for retention.

20 9. On July 28, 2015, Secretary of Defense Ashton Carter ordered Brad  
21 Carson, Acting Undersecretary of Defense for Personnel and Readiness, to  
22 convene a working group to identify the practical issues related to transgender  
23 Americans serving openly in the Armed Forces, and to develop an implementation  
24 plan that addressed those issues with the goal of maximizing military readiness  
25 (the "Working Group").

26 10. As Secretary of the Air Force, I was responsible for supervising the  
27 Department of the Air Force's participation in the Working Group. The Working  
28 Group met both as a whole and in smaller groups tasked with investigating and

1 analyzing specific issues. I met regularly with members of the Working Group to  
2 discuss their progress and the Air Force’s positions on the issues discussed.

3 11. The Working Group engaged in a comprehensive examination of the  
4 issues presented by permitting transgender people to serve openly. The goal was  
5 to be as comprehensive as possible, considering all available scholarly literature  
6 and evidence, and to thoroughly investigate any possible issues or concerns about  
7 how permitting open service might affect any aspect of military efficiency or  
8 readiness.

9 12. The Working Group included military and civilian personnel,  
10 readiness and medical experts from each of the services along with medical experts  
11 from the Defense Health Agency. It solicited information from both senior  
12 military personnel who supervised transgender service members and transgender  
13 people on active duty. It also examined the experiences of civilian employers and  
14 of foreign militaries who permit transgender people to serve openly.

15 13. The Working Group also considered a report from the RAND  
16 Corporation, a federally funded research center that regularly provides research  
17 and analysis to the Armed Forces. The RAND Corporation was asked by the  
18 Under Secretary of Defense for Personnel and Readiness to conduct a study “to (1)  
19 identify the health care needs of the transgender population, transgender service  
20 members’ potential health care utilization rates, and the costs associated with  
21 extending health care coverage for transition-related treatments; (2) assess the  
22 potential readiness implications of allowing transgender members to serve openly;  
23 and (3) review the experiences of foreign militaries that permit transgender service  
24 members to serve openly.” A true and accurate copy of the report, entitled  
25 *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*  
26 (“RAND Report”), is attached as Exhibit A.

27 14. The RAND Report concluded that the cost of caring for the medical  
28 needs of transgender personnel would amount to “an exceedingly small proportion

1 of ... overall DoD health care expenditures.” It found that the Military Health  
2 Service (MHS) has the capacity to provide this care, and that doing so would  
3 improve the capacity of the MHS by helping MHS surgeons “maintain a vitally  
4 important skill required of military surgeons to effectively treat combat injuries.”  
5 (8.) Considering a variety of utilization data, including data from the Veterans  
6 Health Administration, the RAND Report concluded that only a very small number  
7 of service members will access some type of gender transition-related treatment  
8 annually. (30.) The RAND Report found that the costs of providing health care  
9 for transgender service members would likewise be very small, amounting to an  
10 insignificant percentage of the overall DoD healthcare budget: “[E]ven in the most  
11 extreme scenario we were able to identify using the private health insurance data,  
12 we expect only a 0.13-percent (\$8.4 million out of \$6.2 billion) increase in AC  
13 health care spending.” (36.)

14 15. The RAND Report concluded that permitting transgender people to  
15 serve openly would have no significant impact on military readiness or efficiency.  
16 The RAND Report examined the deployability of transgender persons before  
17 transition, during transition, and post-transition. It concluded that even assuming  
18 the highest estimates of utilization rates, the impact of permitting transgender  
19 soldiers to serve openly and to obtain appropriate health care would be minimal,  
20 amounting to “0.0015 percent of available deployable labor-years across the AC  
21 and SR.” (42.)

22 16. The RAND Report also found no evidence that permitting transgender  
23 soldiers to serve openly would have any significant negative impact on unit  
24 cohesion. Rather, the available evidence, including the experience of permitting  
25 service by openly gay personnel, suggests the opposite. In particular, the available  
26 evidence indicates that “direct interactions with transgender individuals  
27 significantly reduce negative perceptions and increase acceptance.” (44.)  
28

1           17. The RAND Report found that available research on foreign militaries  
2 showed no evidence that “allowing transgender people to serve openly has had any  
3 negative effects on operational effectiveness, cohesion, or readiness.” (45.) The  
4 Working Group also met directly with representatives from some of these foreign  
5 militaries, who confirmed that permitting open service had no significant  
6 deleterious effects.

7           18. The Working Group compared the potential loss of deployability  
8 associated with transition-related health care with the loss of deployability  
9 associated with other, much more common medical conditions. The Working  
10 Group considered impacts to readiness and advice from experts indicating that the  
11 circumstance should not be treated differently.

12           19. The Working Group also considered that both private and public  
13 employers increasingly are providing coverage for transition-related health care,  
14 including the health insurance coverage available to civilian federal employees.

15           20. The Working Group also considered that banning transgender service  
16 members results in the loss of otherwise qualified personnel, which may leave  
17 critical positions unexpectedly vacant, as well as the financial loss involved in  
18 having to replace trained and, in some instances, highly skilled personnel.

19           21. The Working Group also considered that barring service by  
20 transgender people reduces the pool of potential qualified recruits and irrationally  
21 excludes individuals based on a characteristic that has no relevance to their ability  
22 to serve.

23           22. Based on its comprehensive and careful review, the Working Group  
24 agreed that transgender people should be permitted both to enlist and to serve  
25 openly in the United States military.

26           23. With regard to accession, the Working Group agreed that transgender  
27 persons should be subject to the same medical standards applied to persons with  
28 other medical conditions. Those standards are designed to ensure that those

1 entering service are free of medical conditions or physical defects that may require  
2 excessive time lost from duty. The Working Group therefore agreed that  
3 applicants with a history of gender dysphoria or of treatment for gender dysphoria  
4 be permitted to enlist only if they have completed all medical treatment associated  
5 with gender transition and been stable in the preferred gender for a specified period  
6 of time.

7 24. The Working Group agreed upon a variety of other changes to related  
8 military policy, based on the same principle of securing equal treatment of  
9 transgender persons under existing standards.

10 25. On June 30, 2016, Secretary of Defense Ashton Carter issued  
11 Directive-type Memorandum (DTM) 16-005, entitled “Military Service of  
12 Transgender Service Members” (“DTM 16-005”), a true and accurate copy of  
13 which is attached as Exhibit B.

14 26. The purpose of DTM 16-005 was to “[e]stablish[ ] policy, assign[ ]  
15 responsibilities, and prescribe [ ] procedures for the standards for retention,  
16 accession, separation, in-service transition, and medical coverage for transgender  
17 personnel serving in the Military Services.” DTM 16-005 was applicable to all  
18 Military Departments, including the USAF, as well as all organizational entities  
19 within the DoD, including the Joint Chiefs of Staff.

20 **Change, Development, and Implementation of USAF Policy**

21 27. To implement DTM 16-005 as applied to the Air Force, on October 6,  
22 2016, I issued an Air Force Policy Memorandum entitled “*Air Force Policy*  
23 *Memorandum for In-Service Transition for Airmen Identifying as Transgender*”  
24 (the “AFPM”) jointly with the U.S. Air Force Chief of Staff, General David  
25 Goldfein. General Goldfein is a fighter pilot who has served in the Air Force for  
26 over 30 years (including multiple combat deployments). A true and accurate copy  
27 of the AFPM is attached hereto as Exhibit C.

28



1           28. The policy and guidance in the AFPM, which was effective  
2 immediately for all USAF personnel, “provides unit personnel, supervisors,  
3 commanders, transgender Airmen and the medical community a construct by  
4 which transgender Airmen may transition gender while serving,” and “outlines  
5 policies for accessing, separating, and retaining transgender Airmen.” Further, the  
6 policies and procedures reflected in the AFPM “are premised on the conclusion  
7 that open service by transgender Airmen who are subject to the same standards and  
8 procedures as other members of the same gender with regard to their medical  
9 fitness for duty, physical fitness, dress and appearance standards, deployability,  
10 and retention, is consistent with military service and readiness.” The AFPM thus  
11 provides that “no otherwise qualified Airman may be involuntarily separated,  
12 discharged or denied reenlistment or continuation of service solely on the basis of  
13 their gender identity.”

14           29. With respect to individuals presently serving in the USAF, the AFPM  
15 states that transgender Airmen will be responsible to meet all standards for  
16 uniforms and grooming, physical fitness, and use of facilities according to the  
17 Airmen’s gender marker in the Military Personnel Data System (“MilPDS”),  
18 subject to the approval of an Exception to Policy (“ETP”) request.

19           30. The AFPM further provides that when a transgender Airman’s  
20 medical provider formally advises the Airman’s commander that the Airman’s  
21 transition is complete, the Airman can “provid[e] ... either a certified copy of a  
22 state birth certificate reflecting the member’s preferred gender, a certified copy of a  
23 court order reflecting the member’s preferred gender, or a United States passport  
24 reflecting the member’s preferred gender.” And, per the AFPM, the Airman’s  
25 commander may then authorize an update to the Airman’s gender marker in  
26 MilPDS, which then “will be transmitted to and updated in DEERS.” The Airman  
27 will thereafter be responsible for meeting all gender-related standards in  
28 accordance with the updated gender marker.

1           31. To allow USAF commanders to address medical needs in a manner  
2 consistent with military mission and readiness, the AFPM sets forth detailed  
3 procedures concerning medical treatment for transgender Airmen with a diagnosis  
4 from a medical military provider indicating that gender transition is medically  
5 necessary. Airmen with such a diagnosis must notify their commander and  
6 “identify all medically necessary care and treatment that is part of the Airman’s  
7 medical treatment plan and a projected schedule for such treatment, including an  
8 estimated date for a change in the member’s gender marker in MilPDS.” A  
9 military medical provider’s diagnosis must be confirmed by the Medical  
10 Multidisciplinary Team, taking into account “the severity of the transgender  
11 Airman’s medical condition and the urgency of any proposed medical treatment.”  
12 All gender transition plans must include timing, as approved by the Airman’s unit  
13 commander in consultation with the Airman and military medical personnel.

14           32. The AFPM also provides that “[t]ransgender Airmen selected for  
15 deployment will not be prevented from deploying if they are medically qualified.”  
16 “Any determination that a transgender Airman is non-deployable at any time will  
17 be consistent with established Air Force standards, as applied to other Airmen  
18 whose deployability is similarly affected in comparable circumstances unrelated to  
19 gender transition.”

20           33. In addition, the AFPM identified the following Air Force Instructions  
21 (“AFI”) to be revised to conform with the updated DoD policy concerning service  
22 of transgender individuals, consistent with the policy announced in the AFPM: (i)  
23 AFI 36-3206, Administrative Discharge Procedures for Commissioned Officers;  
24 (ii) AFI 36-2905, Fitness Program; (iii) AFI 36-2903, Dress and Personal  
25 Appearance of Air Force Personnel; (iv) AFI 36-3208, Administrative Separation  
26 of Airmen; (v) AFI 36-3209, Separation and Retirement Procedures for Air  
27 National Guard and Air Force Reserve Members; (vi) AFI 48-123, Medical  
28

1 Examinations and Standards; and (vii) AFI 32-6005, Unaccompanied Housing  
2 Management.

3 34. On September 30, 2016, the Department of Defense issued  
4 Transgender Service in the Military, An Implementation Handbook (“DoD  
5 Handbook”). A true and accurate copy of the DoD Handbook is attached hereto at  
6 Exhibit D. The DoD Handbook is intended as a practical day-to-day guide to assist  
7 all service members in understanding the Department of Defense’s policy of  
8 allowing the open service of transgender service members. To that end, the DoD  
9 Handbook instructs all service members:

10 The cornerstone of DoD values is treating every Service member with  
11 dignity and respect. Anyone who wants to serve their country,  
12 upholds our values, and can meet our standards, should be given the  
13 opportunity to compete to do so. Being a transgender individual, in  
14 and of itself, does not affect a Service member’s ability to perform  
15 their job.

15 **The Harms Caused by the Recent Reversal of Policy**

16 35. Relying on the DTM 16-005 and the Air Force Policy Memorandum,  
17 some service members disclosed their transgender status to their commanding  
18 officers and took other steps in reliance on the policy permitting service by openly  
19 transgender personnel. I am unaware of any evidence that this caused any harm to  
20 Air Force operations.

21 36. On July 26, 2017, President Donald Trump issued a statement that  
22 transgender individuals will not be permitted to serve “in any capacity” in the  
23 Armed Forces.

24 37. On August 25, 2017, President Trump issued a memorandum to the  
25 Secretary of Defense and the Secretary of Homeland Security to reverse the policy  
26 adopted in June 2016 that permitted military service by openly transgender  
27 persons. That memorandum stated: “In my judgment, the previous Administration  
28 failed to identify a sufficient basis to conclude that terminating the Departments'

1 longstanding policy and practice would not hinder military effectiveness and  
2 lethality, disrupt unit cohesion, or tax military resources, and there remain  
3 meaningful concerns that further study is needed to ensure that continued  
4 implementation of last year's policy change would not have those negative effects.”

5       38. I am not aware of any evidence to support President Trump’s stated  
6 rationales for reversing the policy permitting open service. The Working Group  
7 spent months carefully collecting and considering the available evidence related to  
8 this issue, including examining how permitting open service by transgender  
9 persons would affect the very factors referenced in the August 25 memorandum.  
10 The Working Group did not find that permitting transgender soldiers to serve  
11 would impose any significant costs or have a negative impact on military  
12 effectiveness or readiness. The Working Group also found that barring  
13 transgender people from military service causes significant harms to the military,  
14 including arbitrarily excluding potential qualified recruits based on a characteristic  
15 with no relevance to their ability to serve.

16       39. In addition to being contrary to the careful study performed and  
17 conclusions drawn by the Working Group and the Secretary of Defense, it is my  
18 assessment, based on my experience as Secretary of the Air Force and in other  
19 leadership positions within the DoD and other defense-related institutions, that  
20 banning transgender people from enlisting or openly serving in the military would  
21 harm both the military and the broader public interest, for several reasons.

22       40. **Loss of Qualified Personnel.** First, banning current transgender  
23 service members from enlisting or serving in the military will result in the loss of  
24 qualified recruits and trained personnel, reducing readiness and operational  
25 effectiveness. The military has invested significant resources in the education and  
26 training of these personnel. Those resources are squandered when they are  
27 separated for reasons unrelated to their ability or performance.

28

1           41. The loss of qualified personnel as a result of separating transgender  
2 service members could be particularly acute at USAF. The USAF is currently  
3 facing a reduced pool of qualified potential recruits. Unlike many private-sector  
4 companies, which can fill vacancies by simply tapping an experienced and flexible  
5 labor pool, the USAF has to grow its own set of skilled specialists, and that can  
6 take years. If the USAF were to lose any pilots because of the ban on transgender  
7 service members, that would be especially expensive given the crisis level of pilots  
8 who cost millions of dollars to train.

9           42. **Deployability.** Allowing transgender service members to openly  
10 serve does not create any unique issues relating to deployability. Any time that a  
11 given service member cannot deploy, we rely on force management models, the  
12 reserve component, and in some cases, civilian support to meet mission  
13 requirements. Military processes exist to manage any exigencies as they arise.  
14 Responding to any deployability issues to the extent that they may arise for some  
15 individual transgender service members creates no greater challenges than those  
16 recently addressed by, for example, a change in maternity leave policies for  
17 pregnant service members.

18           43. **Erosion of Trust in Command.** Second, the President's abrupt  
19 reversal of policy is harmful to military readiness because it erodes service  
20 members' trust in their command structure and its professionalism. The military's  
21 effectiveness depends on a relationship of mutual trust between leaders and  
22 followers. That trust, and the prompt following of commands, is essential to the  
23 unit cohesion and rapid response required to address unexpected crises or  
24 challenges. Following the adoption of the policy permitting open service by  
25 transgender persons in 2016, military leaders instructed service members that they  
26 should not discriminate against their transgender colleagues. For that policy to be  
27 abruptly reversed will inevitably erode trust in the reliability and integrity of  
28 military decision making.

1           44. This sudden reversal is harmful both to transgender service members  
2 and to other formerly disfavored groups that have been recently integrated into the  
3 military and into combat roles. In 2011, the Don't Ask, Don't Tell policy  
4 prohibiting gay, lesbian and bisexual people from openly serving in the military  
5 was repealed. More recently, DoD also removed remaining barriers for women  
6 serving in certain combat positions. The sudden reversal of the DoD's recently  
7 adopted policy of inclusion sends a dangerous message that policies promoting the  
8 inclusion and equal treatment of other groups may similarly be arbitrarily reversed.

9           45. **Readiness and Morale.** Third, the sudden reversal of a policy  
10 adopted after substantial deliberation will also have a deleterious effect on morale,  
11 as it undermines the confidence of service members that important military policy  
12 decisions will be based on a rational, careful, and thoughtful process. Airmen and  
13 other service members must believe that the orders and policies they are required  
14 to follow are based on reasonable decisions, not impulse or whim. This trust in the  
15 rationality and professionalism of our military leadership is also a key factor in  
16 recruiting and retaining talented personnel. The sudden reversal of the June 2016  
17 policy undermines that trust.

18           46. Banning openly transgender service members will also have a  
19 negative impact on recruitment and retention, which are critical concerns in our all-  
20 volunteer services. Such a ban will arbitrarily eliminate otherwise highly qualified  
21 and valuable individuals who wish to serve, including those who are already  
22 enrolled in Reserve Officer Training Corp programs and military academies, based  
23 on a characteristic that has no bearing on fitness for military service. Preventing  
24 the accession of transgender individuals who have met the rigorous requirements  
25 for enrollment in a military academy is particularly senseless and damaging and  
26 will result in the loss of extremely talented and well-qualified future leaders. The  
27 negative impact of such irrational and prejudicial policies on the public perception  
28

1 of the Armed Services—including the perception of potential recruits—should not  
2 be underestimated.

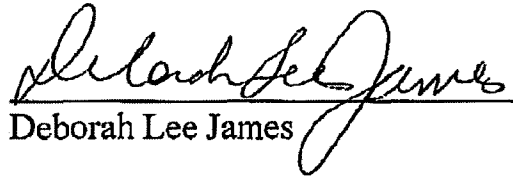
3 47. The impact to morale engendered by the abrupt reversal of the policy  
4 permitting open service by transgender people will not only have an effect on the  
5 morale of our current service members. Any suggestion that those serving to  
6 protect and defend our country will not have the fullest support of their entire chain  
7 of command will also have a negative impact on the USAF’s ability to recruit  
8 highly qualified candidates who can perform at the highest levels necessary to  
9 complete the USAF’s core missions.

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

DATED: September <sup>25<sup>TH</sup></sup>, 2017

  
Deborah Lee James