

West Virginia Family Challenges Ban on Transgender Student-Athletes at Fourth Circuit

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RICHMOND, Va. – On Friday, Oct. 27, the Fourth Circuit Court of Appeals will hear arguments on behalf of [Becky Pepper-Jackson](#), a 13-year-old transgender girl from West Virginia, against a state law banning transgender girls from playing on girls' student athletics teams.

Lawyers from the American Civil Liberties Union, the ACLU of West Virginia, Lambda Legal, and Cooley LLP will argue against the law in a hearing at the Fourth Circuit courthouse in Richmond, Virginia. Audio of the hearing [can be livestreamed here starting at 8:30 a.m. ET.](#)

“We've said all along that this law is cruel and stigmatizing, and we are looking forward to our legal team demonstrating in court that it is also unconstitutional,” said **Aubrey Sparks, legal director of the ACLU of West Virginia**. “Trans kids belong everywhere that cisgender kids belong. Becky belongs on the team playing with her friends.”

“Becky is a middle school student fighting for the right to play with her friends and be treated no differently than any other girl on the field,” said **Joshua Block, senior staff attorney at ACLU's LGBTQ & HIV Project**. “She has no athletic advantages but is still excluded by West Virginia simply for being transgender. As multiple other courts have recognized, laws categorically banning girls and women who are transgender from school sports unlawfully excludes them from a fundamental part of the educational process while doing nothing to actually promote equal athletic opportunities for other girls and women.”

“Participating on her school's cross-country and track teams means everything to Becky, as her teammates are her second family,” **Lambda Legal Staff Attorney for Youth**

Sruti Swaminathan said. “The unconscionable campaign targeting Becky is not only unconstitutional and discriminatory, it is also cruel. To expend such time and energy in order to prevent one middle school athlete from reaping the benefits of school sports cannot be a legitimate interest of the State of West Virginia.”

“We are proud to stand up for Becky—and all trans youth – who simply wanted to be treated equally and fairly under the law and participate in sports with their friends. The law and the facts strongly support treating people who are transgender fairly and equally,” said **Kathleen Hartnett of Cooley LLP**.

In April 2021, West Virginia Gov. Jim Justice signed HB 3293 into law, barring transgender girls from participating on all girls’ school athletic teams, from middle school through college. In May 2021, the American Civil Liberties Union, the ACLU of West Virginia, Lambda Legal, and Cooley LLP [challenged the law](#) on behalf of Becky Pepper Jackson, a now-13-year-old middle school girl who would be kicked off her middle school’s girls’ cross country and track and field teams if the law were enforced.

Becky’s legal team initially [won a ruling from the lower court](#) blocking enforcement of the law pending final resolution of the case, and in February 2023, the U.S. Court of Appeals for the Fourth Circuit blocked the state’s effort to kick Becky off the team as her legal team appealed the lower court’s subsequent ruling upholding the 2021 ban.

In March 2023, Attorney General Patrick Morrissey [asked the U.S. Supreme Court](#) for an emergency ruling that would kick Becky off her middle school’s cross country and track and field team pending appeal of the lower court’s ruling. The court rejected this attempt in April 2023.

West Virginia is [one of 21 states](#) that have banned transgender girls from playing on girls’ teams in just the last three years as part of an [escalating wave of state-level restrictions](#) on the rights of transgender people. In August 2023, the Ninth Circuit Court of Appeals [upheld an injunction](#) against Idaho’s ban against transgender girls playing girls’ sports, finding that the law likely violates the Equal Protection Clause of the U.S. Constitution.