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NORTH DAKOTA SUPREME COURT

IN THE SUPREME COURT STATE OF NORTH DAKOTA

T.D., by and through his parents, DEVON DOLNEY and ROBERT DOLNEY, DEVON DOLNEY, an individual, ROBERT DOLNEY, an individual, PAMELA ROE, by and through her parents PETER ROE and PAULA ROE, PETER ROE, an individual, PAULA ROE, an individual, JAMES DOE, by and through his parents, JOHN DOE and JANE DOE, JOHN DOE, an individual, JANE DOE, an individual, and DR. LUIS CASAS, an individual, on behalf of himself and his patients,

Plaintiffs/Appellants,

-vs-

DREW H. WRIGLEY, in his official capacity as Attorney General for the State of North Dakota, KIMBERLEE JO HEGVIK, in her official capacity as the State's Attorney for Cass County; JULIE LAWYER, in her official capacity as the State's Attorney for Burleigh County; AMANDA ENGELSTAD, in her official capacity as the State's Attorney for Stark County.

Defendants/Appellees.

Supreme Ct. No. 20260075

D. Ct. No. 08-2023-CV-02189
South Central Judicial District

On Appeal from Amended Final Judgment Dated December 19, 2025
Burleigh County District Court, South Central Judicial District
Hon. Jackson J. Lofgren, District Court Judge

APPELLANT DR. LUIS CASAS'S REPLY BRIEF

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INTRODUCTION

[¶1] The State seeks to override the deeply personal, fully informed, life- and health-preserving medical decisions that North Dakota families have made in consultation with licensed North Dakota medical providers. Allowing the State to continue enforcing a law that has harmed many and benefitted none would insult the intelligence and foresight of the framers of the North Dakota Constitution, render the North Dakota Constitution subordinate to the legislative branch of government, and deprive all North Dakota minors of any safeguards from legislative overreach regarding their medical care. Based on the robust trial record, the Ban violates the fundamental rights of North Dakotans and the Court must remand the case for reconsideration under heightened review.

THE STATE'S FACTUAL CLAIMS ABOUT THE PROVISION OF GENDER-AFFIRMING MEDICAL CARE ARE NOT SUPPORTED BY THE TRIAL RECORD IN THIS CASE.

[¶2] The State alleges that there is no reliable evidence in the trial record that gender-affirming medical care benefits North Dakotan adolescents. (Appellee's Br. ¶ 44). This is belied by the trial record, which provides substantial evidence that as a result of the life- and health- preserving care provided by a multidisciplinary team of medical experts, Transcript of Court Trial Day 3 (R766:142:22–143:14); Transcript of Court Trial Day 4 (R767:32:20–33:22, 123:15–25); Plaintiff's Trial Ex. 10, CV of Luis Casas (R582); Plaintiff's Trial Ex. 11, CV of Gabriella Balf (R583); Plaintiff's Trial Ex. 12, CV of Danial Sturgill (R584), North Dakota adolescents with gender dysphoria have gone from hopeless, suicidal, and isolated, Transcript of Court Trial Day 2 (R765:130:15–131:6, 140:14–18; R766:98:13–25, 99:5–18), to hopeful, confident, social, and thriving in every facet of their life, (R765:137:23–138:12, 139:1–15; R766:108:14–109:7, 116:12–25); *see also* Transcript of Court Trial Day 1 (R764:223:5–10, 226:4–5; R765:78:2–8).

[¶3] The State has failed to proffer evidence of a single North Dakotan adolescent who has: (1) been harmed by receiving gender-affirming medical care; (2) regretted gender-affirming medical care; (3) been pressured to receive gender-affirming medical care; (4) presented to an emergency room due to complications related to gender-affirming medical care; (5) experienced any serious side effects; or (6) issued a complaint against a gender-affirming medical care provider. (R766:148:19–149:5; R767:38:15–25, 73:12–17, 137:22–138:11, 162:24–163:10); Transcript of Court Trial Day 7 (R770:76:16–77:3).

[¶4] At trial, Appellant presented substantial peer-reviewed scientific data concluding that gender-affirming medical care is safe, effective, and beneficial for adolescents with gender dysphoria. *E.g.*, (R764:130:21–137:21; R770:107:21–115:19); Plaintiff's Trial Ex. 41, de Vries Study (R602); Plaintiff's Trial Ex. 42, de Vries Follow-Up Study (R603); Plaintiff's Trial Ex. 45, Achille Study (R606); Plaintiff's Trial Ex. 48, Costa Study (R609); Plaintiff's Trial Ex. 52, Baker Study (R613); Plaintiff's Trial Ex. 53, Green Study (R614); Plaintiff's Trial Ex. 54, Turban Study (R615); Plaintiff's Trial Ex. 55, Chen Study (R616); Plaintiff's Trial Ex. 93, Smith Study (R654). By contrast, the State provided no reliable scientific evidence in support of categorically banning all gender-affirming medical care for all adolescents, regardless of individual need. In support of their position, the State's experts, all of whom have been discredited by courts in other jurisdictions, *e.g.*, *Eknes-Tucker v. Marshall,* 603 F. Supp. 3d 1131, 1142–43 (M.D. Ala. 2022); *Koe v. Noggle*, 688 F. Supp. 3d 1321, 1351 n.26 (N.D. Ga. 2023); *Edmo v. Corizon Inc.*, 935 F.3d 757, 789 (9th Cir. 2019), relied on debunked sources such as: a journal article that had to be corrected after publication because the author hid the fact that her findings were based on anonymous surveys on anti-transgender websites, Transcript of Court Trial Day 6 (R769:146:4–

148:17); (R770:101:7–103:1); a study that was so unreliable that it had to be retracted, (R770:103:2–106:12); a reality television show, Transcript of Court Trial Day 5 (R768:136:9–137:3); and unsupported conspiracy theories and hearsay suggesting that an "Admiral Levine" exerted undue influence over the WPATH guidelines, (R770:43:3–13).

[¶5] Where the State does refer to more reputable sources, those sources do not support its position that gender-affirming medical care should be banned for all adolescents regardless of individual need, which is what the Ban does. For example, the Cass Review from the United Kingdom, cited favorably by the State, concluded, "for some [adolescents], the best outcome will be transition," Plaintiff's Trial Ex. 31, Cass Review (R594:21), and does not recommend banning gender-affirming medical care for all adolescents, (R764:150:3–24). One of the State's experts conceded that no other country has completely banned gender-affirming medical care for all adolescents. (R769:156:10–159:8). Another admitted that where families are fully informed by their physician of the risks, the decision to receive gender-affirming medical care should be up to individual families and their doctors, and not the State. (R770:94:9–13).

[¶6] The State is also misleading about scientific evidence on issues such as desistance rates. The State cited testimony claiming that a "high rate of children diagnosed with gender dysphoria" will desist as they mature. (Appellee's Br. ¶ 42 (citing (R769:74:1-4)). This claim is both incorrect and omits critical context. Dr. Cantor is expressly referring to studies of *prepubescent* children, (R769:73:22–74:4), who are categorially ineligible for gender-affirming medical care, Plaintiff's Trial Ex. 21, WPATH SOC 8 (R591:20, 62); (R767:35:15–23, 127:7–13, 129:13–23, 133:7–135:25). Unlike prepubescent minors who are not eligible for gender-affirming medical care, the population of adolescents impacted

by the Ban are overwhelmingly likely to persist in their identities. (R764:160:4–18; R767:84:12–24). "Detransition," not "desistance," is the term for someone who has received gender-affirming medical care and then stops. (R767:63:15–24). Detransition rates are exceedingly low, and regret rates lower still, as detransition is not synonymous with regret. (R767:63:25–65:1, 67:3–22). People stop gender-affirming medical care for a variety of reasons, including because they are happy with their present results. (R767:67:6–14). Even the Cass Review, which studied 3,300 adolescent patients in the U.K., found that fewer than 10, which is less than .003%, detransitioned. (R767:65:11–66:16).

[¶7] The State asks this Court to rely on "facts" outside the record, such as an out-of-context statement made by an attorney in a case with no trial record of its own, (Appellee's Br. ¶ 119), and false claims about the WPATH guidelines, which are recognized by the leading medical associations as the standard of care. *See, e.g.,* Br. of Amici Curia Am. Acad. of Pediatrics et al. (R128). But outside "facts" are not relevant. S*ee* N.D. R. App. P. 10; *Boyda v. Boyda*, 2025 ND 193, ¶ 27, 27 N.W.3d 706. Notably, the Endocrine Society guidelines, Plaintiff's Trial Ex. 23, Endocrine Soc'y Guidelines (R593), which the multidisciplinary team also follow, (R767:74:15–21, 130:24–131:2), likewise calls for medical interventions for gender dysphoria.

[¶8] The State also makes claims about the provision of gender-affirming medical care in North Dakota that are not supported by the trial record. The State egregiously suggests that Appellant and other providers are causing minor patients' suicidality by suggesting they need gender-affirming care. (Appellee's Br. ¶ 120). Appellant testified at trial that he specifically does not tell families that the failure to consent could lead to serious harm or suicide because he does not "want to feel like [he's] coercing anybody into treatment by

focusing on a lot of the negatives of not treating." (R767:150:2–21). None of his patients or their families reported feeling pressured to begin treatment. (R764:220:20–222:19; R765:75:6–76:17, 137:18–138:14; R766:94:10–109:8).

[¶9] In sum, the State mischaracterizes the evidence at trial supporting gender-affirming medical care, fails to back up its claims with evidence in the record about its purported risks, and asks this Court to follow dicta from non-binding cases. The standard of review is *de novo*, and this Court should not take the State's bait, and instead "find the facts for itself." *Kelmis v. Cardinal Petroleum Co.*, 156 N.W.2d 710, 715 (N.D. 1968).

LEGAL ARGUMENT

I. Article 1, Section 1 of the North Dakota Constitution Protects All North Dakotans' Right to Life- and Health-Preserving Medical Care.

[¶10] The strong individual rights enshrined in Article I, Section 1 of the North Dakota Constitution protect all North Dakotan's right to access life- and health-preserving medical care, and this is reason enough to subject the Ban to strict scrutiny. *See State v. Cromwell*, 9 N.W.2d 914, 919 (N.D. 1943) (describing the rights protected by Section 1 as "the most comprehensive [rights] to be found in the constitution" (internal quotation marks and citation omitted)). The Montana Supreme Court's decision enjoining a substantially similar ban under the Montana Constitution's right to privacy is illustrative. *See Cross ex rel. Cross v. State*, 2024 MT 303, ¶ 56, 560 P.3d 637 (declining to reach equal protection arguments because plaintiffs are likely to succeed under privacy provision). The State asks this Court to disregard *Cross* because it was based on a "right to privacy," (Appellee's Br. ¶ 35), but, just as with North Dakota's Article I, Section 1, the constitutional provision in question protects two relevant recognized interests: "personal autonomy" and the right "to make medical judgments affecting [one's] bodily integrity and health in partnership with a

chosen health provider free from the interference of the government." *Cross*, 2024 MT 303, ¶ 28, 560 P.3d 637. As in *Cross*, this Court should apply strict scrutiny to the Ban because it interferes with the constitutionally protected liberty interest in accessing life- and health-preserving medical care from competent and licensed providers.

[¶11] The State's narrow framing of the right at issue as a fundamental right for minors diagnosed with gender dysphoria to undergo chemical gender procedures, (Appellee's Br. ¶¶ 98–100), must be rejected for two reasons. First, such granular framing is antithetical to the broad liberty interests enshrined in Section 1 and is unsupported by North Dakota case law. *See State ex rel. Schuetzle v. Vogel*, 537 N.W.2d 358, 360 (N.D. 1995) (recognizing "a constitutionally protected liberty interest to refuse unwanted medical treatment," not the right of an incarcerated person diagnosed with diabetes to refuse to take insulin). Such perverse reasoning would afford the State near-total discretion to regulate or proscribe care involving a host of medical advances such as penicillin, chemotherapy, and ultrasounds, without constitutional implications. The framers, who resided in a State with cutting-edge medical care that was among the first to incorporate bacteriology, (R766:69:5–73:13), certainly never intended for the Constitution to freeze medicine, science, and technology in time, *see Access Indep. Health Servs., Inc. v. Wrigley*, 2025 ND 26, ¶ 73, 16 N.W.3d 902 (Tufte, J., dissenting) ("I do not believe the people of North Dakota intended to codify prevailing medical practices in the broad natural rights declaration of art. I, § 1.").

[¶12] Second, the State's narrow framing is unsupported by any historical evidence about what the framers thought about transgender people who were present and visible in North Dakota at the time of Statehood, (R765:12:22–13:6), about the cutting-edge care that was allowed in North Dakota at the time of Statehood, (R766:69:5–73:13), or about medical

care for adolescents broadly, that would justify excusing the Ban from constitutional scrutiny. The State claims to interpret the Constitution through an originalist lens, but neither the original meaning nor original intent involves superimposing onto the framers the values of the 2023 state legislature.

[¶13] The State cannot deprive minors of their fundamental right to life- and health-preserving medical care based on the supposition that they are categorically unable to appreciate medical risks. North Dakota has addressed this concern by codifying parental consent into law. *See* N.D.C.C. § 23-12-13(3). For this reason, when Appellant states that Section 1 protects the right of minors *and their families* to access essential medical care in consultation with licensed providers, Appellant is not asserting a backdoor parental rights claim nor conceding that minors are incapable of apprehending risks. (Appellee's Br. ¶¶ 5, 110). North Dakota treats informed consent as a family matter when it comes to health care for minors, a standard to which Appellant strictly adheres. (Appellant's Br. ¶ 25). Nevertheless, the State would have the Court ignore the primacy of physician- and family-decision-making in favor of allowing untrained politicians to dictate medical treatments with the strongest possible judicial deference.

[¶14] Additionally, this Court has never determined that the fundamental right to access life-saving medical care is limited to life-preserving abortions, nor circumscribed by self-defense principles. (Appellee's Br. ¶¶ 113–17). The State points to the fact that Justice Tufte, in a concurrence, found a right to abortion that aligns with the right to self-defense. *Wrigley v. Romanick*, 2023 ND 50, ¶¶ 42–43, 988 N.W.2d 231 (Tufte, J., concurring). Although there is no universal consensus about when developing prenatal life becomes a person entitled to constitutional protection, in Justice Tufte's view there is a third-party at

stake when a pregnant woman receives life- and health-preserving abortion care, thereby implicating self-defense principles. *Id.* ¶ 43. Nevertheless, Justice Tufte recognizes that a "pregnant woman has a fundamental right to preserve her life and health with the aid of a physician." *Id.* So too does an adolescent experiencing gender dysphoria. If anything, the absence of a countervailing interest in prenatal life makes a minor's claim to this right stronger, not weaker. Indeed, there is no textual or logical basis to find that the right to access life- and health-preserving medical care *only* exists when accessing such care would arguably end the life of a third-party.

[¶15] Additionally, there is no basis to categorically exclude treatment for severe mental health outcomes, including self-harm and suicidality, from the protections of Section 1. (Appellee's Br. ¶¶ 118, 122). This Court has unanimously recognized that Section 1 protects the fundamental right to access medical care "necessary to prevent severe, life altering damage." *Wrigley*, 2023 ND 50, ¶ 31, 988 N.W.2d 231. Where suicidality and suicidal ideation are genuine symptoms of a diagnosed mental health condition, and effective treatments are available, there is simply nothing in the text of the Constitution suggesting that such medical care is exempt from constitutional protection.

[¶16] A more apt comparison than abortion, the constitutional duty of the government to provide medical care under the Eighth Amendment, includes the duty to provide mental healthcare and protect inmates from suicide. *See, e.g.*, *Yellow Horse v. Pennington Cnty.*, 225 F.3d 923, 927 (8th Cir. 2000) (recognizing a "constitutional right to be protected from the known risks of suicide and to have [one's] serious medical needs attended to"); *Liebe v. Norton*, 157 F.3d 574, 577 (8th Cir. 1998) (same).

[¶17] Finally, the State's contention that there is no right to access care that lawmakers

have deemed unlawful or unsafe renders the North Dakota Constitution subservient to the legislature. The power of the legislature ends where constitutional protections begin, not the other way around. (Appellant's Br. ¶¶ 45–46). Accordingly, the Court has a constitutional duty to scrutinize the State's claim that the banned care is experimental or unsafe, and that criminalizing life- and health-saving medical care actually protects children. This Court should remand the case for reconsideration under heightened scrutiny.

II. The Ban is Subject to Heightened Scrutiny on Equal Protection Grounds.

[¶18] In enacting the Ban, North Dakota created a law whose application turns on the patient's "sex," as defined in the statute. N.D.C.C. § 12.1-36.1-01(3). The question of whether an adolescent can access feminizing or masculinizing medications turns on that adolescent's sex. (Appellant's Br. ¶¶ 80–82). The State claims that the law discriminates based on purpose, not sex, but this is simply incorrect. It is not illegal under the Ban to dispense medication for the purpose of masculinizing or feminizing a patient. For example, in a prosecution for dispensing medication to masculinize a patient, the State would have to prove, beyond a reasonable doubt, that the patient is "female" as defined by the law in order to obtain a conviction. (Appellant's Br. ¶¶ 80–82).

[¶19] Additionally, contrary to the State's contentions, the fact that the law classifies based on age in addition to sex does not change the equal protection analysis here. If a law classifies by sex and other characteristics such as age, it is still subject to heightened scrutiny. *See, e.g.*, *Craig v. Boren*, 429 U.S. 190, 200–01 (1976) (subjecting law that classifies based on both age and sex to heightened scrutiny).

[¶20] The State also avers that this Court defers to federal equal protection provisions based on *Snyder's Drug Stores Inc. v. N.D. State Bd. of Pharmacy*, 219 N.W.2d 140 (N.D. 1974), (Appellee's Br. ¶ 69), but this conclusion is not supported by the text, original

meaning, or intent of the North Dakota Constitution. North Dakota's equal protection provisions were not modeled on the federal provisions, (Appellant's Br. ¶ 77), and North Dakota did not develop its jurisprudence in lockstep with federal jurisprudence, *e.g.*, *Edmons v. Herbrandson*, 50 N.W. 970, 972 (N.D. 1891); *Johnson v. Hassett*, 217 N.W.2d 771, 775 (N.D. 1974).

[¶21] The State is also incorrect when it avers that a person can cease to be transgender by exercising their "personal autonomy" and change their gender identity to conform to their sex assigned at birth. (Appellee's Br. ¶ 88). The State has presented no evidence that being transgender is a choice, and people can simply cease being transgender by sheer act of will. Rather, being transgender is immutable. (R764:160:4–18; R767:84:12–24).

[¶22] The State has bent over backwards to try to convince this Court that a law that plainly turns on a patient's sex does not do so, and that being transgender in North Dakota is not an immutable characteristic but a choice that people make for themselves. Neither of these propositions are supported by the plain language of the law or the trial record in this case, which includes evidence that transgender adolescents face substantial stigma and discrimination in North Dakota. *E.g.*, Pl.'s Post-Trial Legal Br. (R771:¶30). This Court should remand this case and direct the District Court to apply heightened scrutiny.

III. Even if Rational Basis Were the Appropriate Standard, the Health Can Ban Fails.

[¶23] The State contends that the Ban satisfies rational basis review because it has a legitimate interest in protecting children through regulation of the medical profession, and that its interest in protecting children is not pretextual. (Appellee's Br. ¶¶ 128–148). The State's argument fails on both accounts.

[¶24] First, the Ban is not reasonably related to any legitimate state interest because it

harms the very population that it purports to protect. (R764:81:1–8, 151:5–8; R765:81:9–20; R767:24:1–25:11, 149:11–150:1, 157:2–22). The Court should decline the State's invitation to blindly adopt the legal findings of courts in other states regarding other laws, (Appellee's Br. ¶¶ 133,135–136, 138), rather than engage with the extensive trial record in this case.

[¶25] Gender dysphoria is a serious medical condition that when left untreated can cause anxiety, depression, and suicide. (Appellant's Br. ¶¶ 16, 19–22). Significant and prolonged emotional distress is a diagnostic criterion of gender dysphoria. (Appellant's Br. ¶ 15–16). Plaintiff's patients are not, as the State baselessly suggests, merely "having anxiety" or claiming self-harm to manufacture a right to the banned care. (Appellee's Br. ¶¶ 124–25). The State's attempt to downplay the suffering caused by untreated gender dysphoria is utterly belied by the trial record, including Appellant's testimony that his patients in North Dakota with gender dysphoria have attempted and completed suicide. (R767:149:21–150:1, 157:2–22). Likewise, Pamela Roe and her father Peter Roe testified that gender-affirming care significantly alleviated her clinically significant distress, which previously caused her to engage in self-harm and contemplate suicide. (R765:140:14–18; R766:99:5–18, 108:14–109:7); *see also* (Appellant's Br. ¶¶ 21–22).

[¶26] Additionally, it is irrational and patently arbitrary to ignore the harm to North Dakotan adolescents who are denied care under the Ban, as the State does. The Cass Review and the State's experts agree that, for some adolescents with gender dysphoria, gender-affirming medical care is the appropriate treatment. *See* (R594:21; R764:102:2–7; R767:24:1–24, 59:15–22, 133:7–134:2, 149:11–150:1; R768:76:1–5; R770:84:23–86:17, 94:9–13). The Ban denies these patients the only safe and effective treatment to preserve

their life and health. (Appellant's Br. ¶¶ 17, 107). As a direct result of the Ban, a North Dakota teen almost died by suicide, entering multi-organ failure and was hospitalized for several months; North Dakota families have uprooted their lives and left the state; and health care providers have left and refused to return. (R:767:72:1–73:5, 157:2–22).

[¶27] In contrast, the trial record confirmed that there was no evidence of harm to a single North Dakota minor from accessing gender-affirming medical care. *Supra* ¶ 3. Over the past 20 years, Appellant has treated more than 200 transgender patients for symptoms of gender dysphoria, at least 75% of whom were North Dakotans, and none of his patients have regretted receiving gender-affirming medical care, (Appellant's Br. ¶¶ 7–8, 33, 90); *see also* (R767:141:21–142:6).

[¶28] When the State refers to the trial record in this case, its account is misleading and inaccurate. For instance, the State posits that "using puberty blockers and hormones to stunt or alter a child's normal pubertal development is not the same thing as using them to facilitate a child's normal pubertal development; they are different procedures, with different effects and different physiological risks." (Appellee's Br. ¶ 137). But the State fails to assign significance to this distinction. While it may not be "identical to give estrogen to a male as it is to give it to a female," (R768:18:20–19:4), that does not prove that it is harmful or ineffective for treating gender dysphoria. Rather, the undisputed trial evidence shows that the risks and side effects are the same regardless of whether cross-sex hormones are given to treat gender dysphoria or any other medical condition. (R767:147:6–148:19, 149:5–10). Moreover, the evidence shows that giving puberty blockers to adolescents to treat central precocious puberty or to treat gender dysphoria is the same procedure, with the same risks and side effects. (R767:145:15–146:20).

[¶29] Despite the State's purported "concerns about the ability of . . . minors to understand the long-term effects of these interventions fully," Findings of Fact, Conclusions of Law, and Order for J. (R785:¶148), the State allows minors to access medications that include far more serious side effects as the banned treatments, such as Risperidone, which carries side effects related to bone density, fertility, and shrinking of the brain, (R767:17:7–19; Appellant's Br. ¶ 113). Parental or guardian consent is required for all pediatric medical care. The State offers no evidence that either North Dakota adolescents with gender dysphoria or their parents are uniquely unable to understand the long-term effects of gender-affirming care, as opposed to any other pediatric medical care that remains available statewide. It is therefore patently arbitrary for the Ban to single out this essential medical care for adverse treatment. Moreover, forcing adolescents to live with significant, life-threatening distress by criminalizing their medical care is not rationally related to ensuring they understand the side effects of that care.

[¶30] Finally, Appellant need not demonstrate that "every lawmaker who supported the bill" acted with animus, (Appellee's Br. ¶ 146), to establish that the Ban was motivated by animus. *See, e.g., Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977) (emphasizing that discriminatory purpose need only be "a" motivating factor); *Romer v. Evans*, 517 U.S. 620, 634–36 (1996) (finding impermissible motivation in statewide referendum that targeted LGBT people despite unavailability of direct evidence that majority of voters were motivated by animus); *Hunter v. Underwood*, 471 U.S. 222, 227–30 (1985) (finding impermissible motivation despite unavailability of direct evidence that majority of delegates were motivated by animus).

[¶31] Far from a few "cherry-pick[ed]" or off-hand comments, (Appellee's Br. ¶¶ 141,

143), the legislative record here is replete with evidence of anti-transgender animus, (Appellant's Br. ¶¶ 31–34, 111). The authors of the Ban would not even recognize that Gender Dysphoria, the condition they were purporting to treat, exists. (Appellant's Br. ¶¶ 31–34); *see Doe v. Ladapo*, 737 F. Supp. 3d 1240, 1274 (N.D. Fla. 2024) (noting that the record includes evidence that the bill sponsors and other members of the House were motivated by anti-transgender animus and "the failure of other members to call them out").

CONCLUSION

[¶32] For the reasons stated herein and in Appellant's opening brief, this Court should find that the District Court erred in applying rational basis review to the Ban and remand the case for reconsideration. In the alternative, this Court should find that the Ban fails rational basis review, declare the Ban unconstitutional, and enjoin its enforcement.

Dated: May 20, 2026

Respectfully submitted,

/s/ Christina Sambor
Christina Sambor (ND #06648)
SAMBOR LAW & CONSULTING
220 E. Rosser Ave., #1703
Bismarck, ND 58502
Telephone: (701) 354-3375
christina@samborlaw.com

Jess Braverman (ND # P02755)
Greta Wiessner (ND #P03099)
GENDER JUSTICE
663 University Ave W Suite 200
St. Paul, MN 55104
Telephone: (651)789-2090
jess.braverman@genderjustice.us
greta.wiessner@genderjustice.us

Paige Suelzle (ND # P02775)
LAWYERING PROJECT
300 Lenora St., No. 1147
Seattle, WA 98121
(347) 515-6073
psuelzle@lawyeringproject.org

Tanya Pellegrini (ND # 027776)
LAWYERING PROJECT
584 Castro St. #2062
San Francisco, CA 94114
(646) 480-8973
tpellegrini@lawyeringproject.org

Counsel for Appellant Dr. Luis Casas

IN THE SUPREME COURT STATE OF NORTH DAKOTA

T.D., by and through his parents, DEVON DOLNEY and ROBERT DOLNEY, DEVON DOLNEY, an individual, ROBERT DOLNEY, an individual, PAMELA ROE, by and through her parents PETER ROE and PAULA ROE, PETER ROE, an individual, PAULA ROE, an individual, JAMES DOE, by and through his parents, JOHN DOE and JANE DOE, JOHN DOE, an individual, JANE DOE, an individual, and DR. LUIS CASAS, an individual, on behalf of himself and his patients, Plaintiffs/Appellants, -vs- DREW H. WRIGLEY, in his official capacity as Attorney General for the State of North Dakota, KIMBERLEE JO HEGVIK, in her official capacity as the State's Attorney for Cass County; JULIE LAWYER, in her official capacity as the State's Attorney for Burleigh County; AMANDA ENGELSTAD, in her official capacity as the State's Attorney for Stark County. Defendants/Appellees.	**Supreme Ct. No. 20260075** **D. Ct. No. 08-2023-CV-02189** South Central Judicial District

CERTIFICATE OF COMPLIANCE

[¶1] In compliance with Rule 32(d) of the North Dakota Rules of Appellate Procedure and the Court's Order granting Appellant's request to extend page limitations, the undersigned hereby certifies that the APPELLANT DR. LUIS CASAS'S REPLY BRIEF contains 18 pages, including footnotes.

Dated: May 20, 2026

/s/ Christina Sambor

Christina Sambor (ND #06648)
SAMBOR LAW & CONSULTING
220 E. Rosser Ave., #1703
Bismarck, ND 58502
Telephone: (701) 354-3375
christina@samborlaw.com

Counsel for Appellant Dr. Luis Casas