

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

LT JANE DOE,

Plaintiff,

v.

MARK T. ESPER, *et al.*,

Defendants.

CIVIL ACTION NO. 1:20-cv-10530-FDS

**PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65(a), and supported by the Memorandum and Affidavits filed herewith, Plaintiff Jane Doe (“Lieutenant Doe”) moves for a preliminary injunction prohibiting Secretary of Defense Mark T. Esper and Acting Secretary of the Navy Thomas B. Modly (collectively, “Defendants”) from enforcing against Lieutenant Doe the Department of Defense (“DoD”) policy barring military service by transgender people announced in March 2018 and effective April 12, 2019 (the “Ban”). *See* James N. Mattis to President Donald J. Trump Memorandum to the President, “Military Service by Transgender Individuals” (Feb. 22, 2018); DoD Report and Recommendations on Military Service by Transgender Persons (Feb. 2018).

Lieutenant Doe is an accomplished Navy Officer who has served two extended tours of duty as a Surface Warfare Officer and deployed around the world. She is also a transgender woman who has recently come to terms with her transgender identity. Under the Ban, Lieutenant Doe is subject to a retention policy that applies only to transgender people, and faces involuntary discharge from service and the end of her Navy career because she is transgender. And unlike service members with other conditions, the military is denying Lieutenant Doe the medical care

she needs, including gender transition-related care that is safe, effective, and medically necessary for her.

The Ban is unconstitutional as applied to Lieutenant Doe because it violates the equal protection component of the Fifth Amendment. Lieutenant Doe seeks a preliminary injunction that will prohibit Defendants from enforcing the Ban against her while this case is pending. Lieutenant Doe seeks a preliminary injunction to ensure that Defendants will not end her career before this case can be resolved on the merits and she can receive medically necessary care while she continues to serve.

For these reasons, and as explained in the accompanying Memorandum, Lieutenant Doe respectfully requests that this Court grant her Motion for Preliminary Injunction and issue an order enjoining Defendants from enforcing the Ban against Lieutenant Doe during the pendency of this litigation, including prohibiting Defendants from enforcing against Lieutenant Doe any policy that (a) subjects Plaintiff to discharge, limits Plaintiff's career opportunities, or otherwise penalizes Plaintiff on account of her transgender identity and/or gender dysphoria diagnosis; (b) limits Plaintiff's access to medically appropriate care as determined on an individualized basis, including any medically necessary gender transition-related care; (iii) requires Plaintiff to "serve in their biological sex"; or (iv) requires Plaintiff to obtain a waiver to continue in service on account of her transgender identity and/or gender dysphoria diagnosis.

Dated: March 17, 2020

Respectfully submitted,

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/s/ Daniel J. Ball

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*\*Pro hac vice* application pending

**CERTIFICATE OF SERVICE**

I, Daniel J. Ball, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants identified on the Notice of Electronic Filing and that, pursuant to Fed. R. Civ. P. 5(b), copies of this document will be hand-delivered to the United States Attorney for the District of Massachusetts, and be served upon the Office of the Secretary of Defense, the Office of the Secretary of the Navy and the United States Attorney General on March 17, 2020 or as soon thereafter as feasible.

Dated: March 17, 2020

*/s/ Daniel J. Ball*

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Daniel J. Ball