

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PETITION OF SCOTT
PORTER, JR.; IN RE:
PETITION OF ROBERT LEE
NOAKER, JR.

CIVIL DIVISION

GD No. 21-11804; 21-11805

PROCEEDING:
EVIDENTIARY HEARING

DATE:
December 15, 2021

REPORTED BY:
Jed H. Reifer

BEFORE:
Hon. Christine A. Ward

COUNSEL OF RECORD:
Patrick Yingling, Esq.
Gabriel Arkles, Esq.
Gregory Vose, Esq.
Zachary Roman, Esq.
Oluwaseii Odunaiya, Esq.

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1 P-R-O-C-E-E-D-I-N-G-S

2 - - -

3 THE COURT: We're here this afternoon
4 for an evidentiary hearing. And I'm not
5 exactly sure what the relief you're asking as
6 a result of today's hearing. So if someone
7 could advise the Court, that'd be great.

8 MR. YINGLING: Patrick Yingling for the
9 petitioners, Your Honor. I'll answer your
10 first question directly. We're asking the
11 Court to hold that the Felony Bar at 54 PA CS
12 Section 702c, is unconstitutional, and grant
13 name change petitions for two cases that have
14 been consolidated for a hearing before you
15 today. That's the name change petition of
16 Chauntesy Porter and the name change petition
17 of Priscylla Renee Von Noaker.

18 THE COURT: So you're not intending on
19 being before the Court in January, unless
20 you're seeking those name changes is today.

21 MR. YINGLING: That's correct. So it's
22 my understanding that in addition to the
23 people in this courtroom, we may have some
24 observers through the link that the Court
25 provided and I would note that for the

1 record.

2 THE COURT: Welcome people on Polycom.

3 MR. YINGLING: Two of our attorneys
4 have pending pro hac vice motions before the
5 Court. And if it's okay with the Court, I
6 will move for the pro hac vice admission of
7 Gabriel Arkles and David Brown.

8 THE COURT: You folks are from where?

9 MR. ARKLES: Your Honor, I'm Gabriel
10 Arkles from the Transgender Legal Defense and
11 Education Fund.

12 MR. BROWN: Your Honor, I'm David Brown
13 also from the Transgender Legal Defense and
14 Education Fund.

15 THE COURT: Gabriel, can you spell your
16 last name?

17 MR. ARKLES: A-R-K-L-E-S.

18 THE COURT: Mr. Brown and Mr. Arkles,
19 welcome to the Court of Common Pleas of
20 Allegheny County. Your motions are granted
21 and these gentlemen are admitted pro hac vice
22 for the purpose of today's hearing. Would
23 other counsel like to enter their appearance
24 at this time?

25 MR. VOSE: Greg Vose of Reed Smith here

1 on behalf of petitioners.

2 MR. ROMAN: Good afternoon, Your Honor,
3 Zack Roman also on behalf of petitioners.

4 MS. ODUNAIYA: Good afternoon, Your
5 Honor. My name is Oluwaseyi Odunaiya here on
6 behalf of the petitioners.

7 THE COURT: I have just been informed
8 that Channel 4 is present in the hallway and
9 Channel 4 is present in the room. Are we
10 ready to proceed.

11 MR. YINGLING: We have no objection to
12 anybody being here.

13 THE COURT: You're not allowed to
14 record and not allowed to take any
15 photographs.

16 MR. YINGLING: Your Honor, this is a
17 unique name change case. We are challenging
18 the constitutionality of a provision of the
19 Pennsylvania statute, the Felony Bar just
20 earlier. We have notified and served the
21 Pennsylvania Attorney General with a filing
22 of this case under Pennsylvania Rule of Civil
23 Procedure 235, as required when challenging
24 the constitutionality of a statutory
25 provision. The Chief Deputy Attorney General

1 has informed us that the Attorney General's
2 office has no current plans to intervene in
3 this action.

4 Also, these two cases that have
5 consolidated for a hearing before you today
6 are actually part of a trio of cases, all
7 involving a challenge to the Felony Bar that
8 was filed on the same day back in September.
9 That other case went to a name change hearing
10 in Philadelphia last week. We presented
11 argument on the unconstitutionality of the
12 Felony Bar and after hearing argument, the
13 Judge granted the name change. That order
14 from Philadelphia was provided to this court
15 for a Notice of Supplemental Authority this
16 past Friday.

17 THE COURT: I also read about it.

18 MR. YINGLING: Apart from the Felony
19 Bar issue, we have satisfied the standard
20 requirements for a name change for both of
21 our petitioners here. There was a notice of
22 this name change hearing to two newspapers in
23 general circulation and completed a judgment
24 search showing that both of our petitioners,
25 Ms. Porter and Ms. Von Noaker, do not have

1 any money judgment against them in any county
2 in which they have lived in the five years.
3 In support of our Felony Bar challenge, we
4 have three witnesses to present today. Both
5 of our petitioners as well as our expert, Dr.
6 Ayden Scheim of Drexel University.

7 I can certainly refer to the Court as
8 to how to proceed. But if it pleases the
9 Courts, I'll allow my colleagues to present
10 our witnesses. And then I can present legal
11 argument on the unconstitutionality of the
12 Felony Bar and answer any questions the Court
13 may have.

14 THE COURT: That sounds like a plan.
15 Mr. Vose, you want to call your first
16 witness.

17 MR. VOSE: Chauntesy Porter.

18 - - -

19 Chauntesy Porter

20 having been first duly sworn,
21 was examined and testified as follows:

22 - - -

23 DIRECT EXAMINATION

24 - - -

25 BY MR. VOSE:

- 1 Q. Good afternoon. Please state your current legal
2 name for the record.
- 3 A. Scott Porter, Jr.
- 4 Q. Do you go by any other name?
- 5 A. Yes, Chauntesy Monique Porter.
- 6 Q. What name would you like me to use today?
- 7 A. Chauntesy Monique Porter.
- 8 Q. Please state your age.
- 9 A. Forty-two (42).
- 10 Q. Where do you live?
- 11 A. I live in Pittsburgh, PA.
- 12 Q. Are you currently employed?
- 13 A. No.
- 14 Q. Where did you previously work?
- 15 A. I worked at Central Outreach Wellness Center which
16 is an LGBT medical clinic.
- 17 Q. Do you volunteer with any organizations?
- 18 A. Yes. I am currently the vice president of Trans
19 United, which is a trans organization that fights
20 for civil liberty for trans people. I'm also the
21 founder of another project but it fights for LGBT
22 civil rights including those are that incarcerated
23 and people living with HIV.
- 24 Q. You mentioned your current legal name is Scott
25 Porter, Jr. Has that always been your legal name?

- 1 A. Yes.
- 2 Q. What name do you use in your everyday life?
- 3 A. Chauntey Monique Porter.
- 4 Q. Why do you use the name Chauntey?
- 5 A. Because I am a woman. And Scott porter does not fit
- 6 my gender.
- 7 Q. Can you explain why do you object to your legal
- 8 name?
- 9 A. Like I said, I am a full woman. Scott Porter is a
- 10 name that was given to me at birth. It's assigned
- 11 with a male's name. And it's for a man. I am not a
- 12 man. I'm a woman.
- 13 Q. So you're here today to change your legal name;
- 14 correct?
- 15 A. Yes.
- 16 Q. Why do you want to change your legal name?
- 17 A. I want to change my legal name because as I stated,
- 18 I am a woman, an African-American black woman. I
- 19 want a name that fits my gender. I want a name that
- 20 goes with everything that I stand for including my
- 21 full surgery, my fight for my community. And even
- 22 for my future marriage.
- 23 Q. Are there any other reasons why you want to change
- 24 your name not related to your gender identity?
- 25 A. No.

- 1 Q. Have you ever been convicted of a crime?
- 2 A. Yes.
- 3 Q. What was your most recent conviction?
- 4 A. In 2008, I was convicted for aggravated assault.
- 5 Q. Was that a felony?
- 6 A. Yes.
- 7 Q. Did you serve a sentence as a result of that
- 8 conviction?
- 9 A. Yes, I did 10 years.
- 10 Q. So you would've been released in 2018; is that
- 11 right?
- 12 A. Yes.
- 13 Q. Have you had any convictions since then?
- 14 A. No.
- 15 Q. Do you have a government issued ID?
- 16 A. Yes, I do.
- 17 Q. How does the name on that ID match your gender
- 18 identity?
- 19 A. It doesn't. The only thing that matches on my ID is
- 20 my gender marker, which is an F.
- 21 Q. How often do you have to present the ID that does
- 22 not match your gender identify?
- 23 A. I have to present my ID when I go to a bank to use
- 24 my bank card. I have to present my ID when I go for
- 25 interviews. Anything that's legal that needs

1 verification for my name, I have to present my ID.

2 Q. How does having government documentation that does
3 not accurately reflect your gender identity impact
4 your day-to-day life?

5 A. It's very stressful. It's humiliating. I've faced
6 discrimination. Most of the time people do not know
7 that I'm transgender. And when they find out, I can
8 feel the shift in their attitude towards me.

9 Q. Do you ever fear of being abused or subject to
10 violence because of the mismatch on your government
11 ID?

12 A. Yes.

13 Q. Can you describe for the Court what that means? The
14 fear of being abused or subject to violence?

15 A. So I had recently, not long ago, when I went into a
16 club. When I presented the bouncer with my ID, he
17 sees the name on my ID, and he broadcasted it for
18 everyone else who was standing in line to get into
19 the club. While I was in the club, people made
20 hateful remarks and things like that. After leaving
21 the club in the parking lot, some gentleman followed
22 me. They said hateful names and began pushing me.
23 I asked them to leave me alone and they wouldn't.
24 And it resulted in a physical altercation, where
25 lucky there was some other bystanders who came to

1 help me and my friends.

2 Q. Based on your government identification, has anyone
3 ever questioned your gender identity?

4 A. I've been questioned. I've been accused of
5 plagiarism. I've been accused of carrying a male's
6 ID just to get recognition as a trans person to
7 receive special treatment and different health care.
8 Some people don't believe that I'm transgender.
9 I've been told that I should be ashamed of myself,
10 for trans people, who present myself as a trans
11 woman for all the things that they go through. I
12 ask people, why would I put myself through hurtful
13 and harmful situations.

14 Q. What activities would you like to do that you feel
15 discouraged from even trying due to your mismatched
16 ID?

17 A. First of all, I want to finally walk down the street
18 with my head held high, and know that my transition
19 is fully complete. When I present my ID to people,
20 I don't have to worry about discrimination or
21 hurtful comments because of my name. I also want
22 to, when I do receive my 501c status for my
23 organization, I want to stand proud as Chauntesy
24 Monique Porter and represent my community. And I
25 have to sign documents that says Scott Porter. And

1 I am currently to my fiance. It hurts him every day
2 when he brings up the topic of planning a wedding,
3 and I tell him no. I refuse to walk down the aisle
4 and be classified as a same-sex marriage. I don't
5 want to stand before a preacher and have him ask my
6 fiance, do you take Scott to be his husband. I want
7 him to say, do you take Chauntesy to be your wife.

8 Q. Have you ever had to disclose your legal name to
9 someone when you didn't want to?

10 A. Yes. Anytime I'm on the phone, there's legal issues
11 that have caused me to give my true name. I have
12 disclosed my name. Places where I have to go to use
13 my legal name, I have to use my true name. And
14 there's a lot of times where I present my ID or say
15 my name, people question me and I have to go through
16 a whole explanation of why my name is Scott Porter.
17 And why I have a name that does not a match my
18 gender.

19 Q. Are there any other examples of harassment that
20 you're comfortable sharing today, that you
21 experienced because the name on your ID does match
22 your gender identity?

23 A. Before I got my gender surgery, I was told that I
24 couldn't get it because I didn't have a female name.
25 Luckily, that process was granted and I was able to

1 receive my gender affirming surgery. Also, when I
2 went to attend cosmetology school, I was told that
3 on my uniform, it would say Scott and not Chauntesy
4 for legal purposes. And even though the people
5 expressed empathy with me, they said their hands
6 were tied. And although that they would call me
7 Chauntesy, my school uniform would read Scott.

8 Q. How did you feel when that happened?

9 A. I didn't go. I declined to attend the school.

10 Q. How does having a different legal name impacted your
11 life?

12 A. While thinking of the reason I was given that name
13 at birth, I understand it. But since the age of 8,
14 I've always identified as a girl. And it's hard to
15 live as a woman when someone's calling you Scott.
16 When someone's saying you're not a real woman, it's
17 hard to change your life and live peacefully, and
18 walk around with your head held high and not be
19 fearful. When people know that you have a boy's
20 name and they look at you and they just say, you're
21 a man. It's hurtful. It's embarrassing. And I
22 just don't want to live that way no more.

23 Q. Why is it important for you to be able to change
24 your name to match your gender identity?

25 A. As I stated before I come before this Court as a

1 strong black woman. I am not a black man. Scott
2 Porter was the name I was given at birth. Since
3 then, I have transitioned into a beautiful, black
4 woman. I've went through all my surgeries, I've
5 completed my transition. It's just unfortunate that
6 I can't feel complete because my name does not match
7 my true gender.

8 MR. VOSE: Nothing further, Your Honor.

9 THE COURT: Ma'am, you can step down.

10 MR. ROMAN: We will call Priscylla Von
11 Noaker.

12 - - -

13 Priscylla Von Noaker
14 having been first duly sworn,
15 was examined and testified as follows:

16 - - -

17 DIRECT EXAMINATION

18 - - -

19 BY MR. ROMAN:

20 Q. Good afternoon. Please state your current legal
21 name for the record.

22 A. My legal name is Robert Lee Noaker, Jr.

23 Q. Do you go by any other names?

24 A. Yes. Priscylla.

25 Q. What name would you like me to use today?

- 1 A. Priscylla.
- 2 Q. Priscylla, can you please state your age?
- 3 A. Seventy-one (71).
- 4 Q. And Priscylla, where do you live?
- 5 A. In McKeesport, Pennsylvania.
- 6 Q. Priscylla, are you currently employed?
- 7 A. No.
- 8 Q. Now, you mentioned that your current legal name was
- 9 Robert Lee Noaker, Jr. Was that always your legal
- 10 name?
- 11 A. Yeah, that's what's on my birth certificate.
- 12 Q. What name do you use in your everyday life?
- 13 A. I generally either use my title as a minister or
- 14 Reverend, and/or Priscylla when it doesn't go into
- 15 question.
- 16 Q. Why do you use the name, Priscylla?
- 17 A. My mother raised me as a girl. And I've always had
- 18 somewhat of an effeminate body. My spirit mentally,
- 19 I'm more female. I've always played with girl's
- 20 toys rather than male toys. And I was basically
- 21 brought up as a girl.
- 22 Q. Priscylla, can you explain why you object to your
- 23 current legal name of Robert Lee Noaker, Jr.?
- 24 A. Because other than it being on my birth certificate,
- 25 it was never really my name.

- 1 Q. Can you explain to me by it was never really your
2 name?
- 3 A. My mother put me into school under my middle name,
4 Lee. She put me into grammar school and
5 Kindergarten. Two catholic schools and public
6 schools in Patterson, New Jersey as Lee Smith.
- 7 Q. Priscylla, why do you want to change your name? Why
8 are we here today?
- 9 A. The name Priscylla reflects more of my gender
10 affiliation. I'm an American Indian and in our
11 culture it's very sacred to us. A male can choose
12 to take on the role of female and vice versa. And
13 generally for the 600 American Indian nations, most
14 consider that are three or four genders. I consider
15 myself, although effeminate male in body, but
16 mentally spiritually as a female. I cry over things
17 that a woman might laugh at in a movie.
- 18 Q. Priscylla, are there any other reasons why you want
19 to change your name aside from your religion and
20 heritage?
- 21 A. No. Just that it's my culture and my way of life.
- 22 Q. Priscylla, have you ever been convicted of a crime?
- 23 A. Yes.
- 24 Q. What was the crime?
- 25 A. Rape.

- 1 Q. How long ago?
- 2 A. 1987.
- 3 Q. Did you serve any sentence as a result of that
- 4 conviction?
- 5 A. A full 10 years.
- 6 Q. What year? That was 1997 when you got out?
- 7 A. I believe around March or April of 1997.
- 8 Q. Have you had any convictions since 1997?
- 9 A. No arrests, no warrants, nothing criminal. Nothing
- 10 involving the law at all.
- 11 Q. Priscylla, do you have a government issued ID?
- 12 A. Yes.
- 13 Q. Does that ID match your gender identity?
- 14 A. No, it does not. Nor my medical ID.
- 15 Q. So you have medical documents as well that list your
- 16 identification that do not match?
- 17 A. The medical areas including UPMC For Life, various
- 18 hospitals, UPMC hospitals, Allegheny Health Network,
- 19 they refer to me as Priscylla. They've documented
- 20 me as Priscylla. But for legal documentation, they
- 21 have to list me as Robert which drives me mentally
- 22 up the wall.
- 23 Q. When do you have to present those documents,
- 24 Priscylla?
- 25 A. Whenever I might go to a different medical facility

- 1 or see new doctor that's not familiar that needs to
2 see that for insurance payment.
- 3 Q. Priscylla, how is having government and medical
4 documentation that does not accurately reflect your
5 identify, how does that impact your life?
- 6 A. It gets confusing. It's emotionally and
7 psychologically damaging. I'm always having to
8 explain, what how can you be Priscylla when your
9 name on paper it's Robert. I'm always having to
10 explain myself away to people that don't understand
11 the circumstances.
- 12 Q. So you have had to disclose your legal name to
13 someone when you didn't want to?
- 14 A. Correct.
- 15 Q. How do you feel when that happens?
- 16 A. Humiliated, embarrassed, somewhat depressing.
- 17 Q. Priscylla, how is having a different legal name
18 impacted your life?
- 19 A. It causes a lot of confusion. A lot of emotional
20 feelings because I'm being forced -- I'm being
21 compelled by others to use a name that really isn't
22 mine. It's not me.
- 23 Q. Last question for you, Priscylla. Why is it
24 important for you to be able to change your name to
25 match your identify and who you're known as?

1 A. So it matches my publication, the work that I do.
2 On behalf of transgender projects through Twitter
3 and other avenues. Priscylla reflects more of who I
4 am. And who I am isn't necessarily what my body
5 shows me to be. It's what I am in spirit and
6 mentally.

7 MR. ROMAN: No further questions, Your
8 Honor.

9 THE COURT: You can step down and take
10 your time. Next witness?

11 MR. ARKLES: Your Honor, the
12 petitioners call Dr. Ayden Schiem.

13 - - -

14 Dr. Ayden Schiem
15 having been first duly sworn,
16 was examined and testified as follows:

17 - - -

18 DIRECT EXAMINATION

19 - - -

20 BY MR. ARKLES:

21 Q. Good afternoon, Dr. Schiem. Could you please state
22 and spell your full name for the record?

23 A. My name is Ayden Schiem, A-Y-D-E-N S-C-H-E-I-M.

24 Q. Can you please briefly describe your educational
25 experience?

- 1 A. Yes. I have a PhD in epidemiology and biostatistics
2 from the University of Western Ontario in London,
3 Canada. And postdoctoral training in Global Public
4 Health from the University of California San Diego.
- 5 Q. What do you do for a living now?
- 6 A. I'm an assistant professor of Epidemiology and
7 Biostatistics at Drexel University in Philadelphia.
- 8 Q. What is epidemiology?
- 9 A. Epidemiology is the study of the distribution and
10 the causes of health and disease at a population
11 level.
- 12 Q. Do you have any area of specialization within
13 epidemiology?
- 14 A. Yes. I'm a social epidemiologist and that means my
15 research focuses on how factors and social
16 environment influence population health outcomes.
17 Specifically, my research focuses on how stigma
18 discrimination impacts health outcomes for
19 marginalized populations.
- 20 Q. What are your responsibilities in your position at
21 Drexel?
- 22 A. My primary responsibility is research so I conduct
23 research as a principal investigator, funded by the
24 National Institute of Health, as well as doing
25 health research. And I also teach classes in

1 epidemiologic research methods. And finally, I
2 supervise graduate student research.

3 Q. What sort of research do you do?

4 A. I conduct observational research. That means we use
5 methods such as surveys to capture people's
6 experiences of the social world, health care and
7 health outcomes. I contrast that observational
8 research from research of randomized people to
9 receive intervention. The types of factors that I'm
10 studying can't be randomized -- you can't randomly
11 assign people to be distributing against or not. We
12 can't randomly assign people to have name changes.
13 We collect data on those experiences.

14 And then when we analyze this data, we try
15 to assess causal relationships by isolating the role
16 of confounders or third variables that might induce
17 the previous relationship, so that we can identify
18 potentially causal relationships, such as social
19 factors and health.

20 Q. Are the methods you use generally accepted your
21 field?

22 A. Yes, they are.

23 Q. How do you know they are acceptable?

24 A. We teach those methods in epidemiology special
25 training. And observational research is designed

1 more broadly. And these are also methods that are
2 published in reading and public health and in
3 epidemiology journals.

4 Q. Do you stay up to date on the research and
5 literature in your field?

6 A. Yes, I do.

7 Q. How do you do that?

8 A. I read journals in my field. I also read all of the
9 research that's been published on a given topic and
10 I critically assess it. For example, I'm the lead
11 author of a review paper that came out this week, in
12 the Annual Review of Public Health. That is one of
13 the top health journals in reviewing research on the
14 health of transgender adults in the US.

15 Q. To the extent you haven't already talked about it,
16 can you just briefly summarize your professional
17 experience as it relates specifically to transgender
18 health?

19 A. So I've been conducting transgender health research
20 for 15 years now. In the last five years working
21 specifically as a principal investigator of
22 federally funded research. And I have active
23 certificates with transgender populations in Canada,
24 United States and India.

25 Q. Have you published on the subject of transgender

1 health?

2 A. Yes, I believe in the CV that was submitted, I have
3 32 peer-reviewed publications focused specifically
4 on transgender health.

5 Q. Have you presented on the subject of transgender
6 health?

7 A. Yes. I have presented on transgender health as a
8 presenter at conferences internationally.

9 Q. Have you ever done research specifically on the
10 subject of the relationship between name changes and
11 health?

12 A. Yes, I have.

13 Q. Did you rely on the same methods in providing your
14 opinions for this case that you typically use in
15 your research?

16 A. Yes, I did.

17 Q. What are those methods?

18 A. So I looked at the totality on what's been published
19 on the question at hand. And I summarized what the
20 research studies found, but also looked critically
21 at the data.

22 MR. ARKLES: Your Honor, the
23 petitioners would like to offer Dr. Scheim as
24 expert in the field of epidemiology and
25 transgender health.

1 THE COURT: The Court will accept Dr.
2 Scheim as an expert in the field of
3 epidemiology and transgender health.

4 MR. ARKLES: Thank you, Your Honor.
5 The petitioners also submitted Dr. Schein's
6 CV and his report in the form of a
7 declaration to the Court. Would it be
8 convenient for the Court if I move to have
9 them admitted as evidence?

10 THE COURT: Yes. We will call the
11 declaration as Petitioner Exhibit 1 and it
12 will be admitted.

13 MR. ARKLES: Thank you, Your Honor.

14 THE COURT: We will call the CV
15 Petitioner Exhibit 2.

16 BY MR. ARKLES:

17 Q. Doctor, let's back up a little. What does the term
18 transgender mean?

19 A. Transgender is a term that refers to people whose
20 gender identity doesn't match the sex they were
21 assigned at birth.

22 Q. What is gender identity?

23 A. Gender identity is internal sense of themselves as a
24 man, as a woman or as a different gender.

25 Q. What is gender dysphoria?

1 A. Gender dysphoria is a diagnostic term used in the
2 American Psychiatric Association Diagnostic
3 Statistical Manual. It refers to clinically
4 significant distress related to the mismatch between
5 one's gender and the sex they were assigned at
6 birth. It's also a term that's used more
7 colloquially as a non-diagnostic sense to refer to
8 that distress.

9 Q. Is there any treatment for gender dysphoria?

10 A. So the treatment is recognized by the world
11 professional association for transgender health,
12 which publishes standard of care for transgender
13 health, as well as organizations that have access to
14 gender affirmation. When I say that name, I am
15 referring to multiple dimensions of gender
16 affirmation.

17 The first thing that people often think of
18 is medical gender affirmation. And that would
19 include hormone therapy as well as a range of
20 surgeries. But there's other types of affirmations
21 that are also an important part. So there's social
22 affirmations that include using the name and pronoun
23 that's corresponds to somebody's gender. And
24 finally, what we're here to talk about today, legal
25 affirmation. So legal name changes and legal gender

1 marker changes.

2 Q. How if at all does having to use a name does not
3 align with one's gender identity affect the health
4 of transgender people?

5 A. So I think it was spoken to quite eloquently
6 earlier. Having a documents that don't match one's
7 gender can force people to be outed as transgender
8 without their consent, without any choice in the
9 matter, in a wide range of social circumstances. In
10 any situation where they have to present ID or use
11 their legal name. And because we live in a society
12 in which stigma and discrimination against trans
13 people remain rampant, that can mean that people are
14 exposed to various forms of stigma and
15 discrimination, and maybe even violence when they
16 present their ID.

17 So for example, the US Transgender Survey
18 which was the largest ever survey of transgender
19 people of 27,000 respondents. Of those who had to
20 present ID that didn't match their gender, about a
21 third had some type of negative experience, 25
22 percent had been verbally harassed, 15 percent were
23 denied service, 9 percent were asked to leave the
24 space when they were presenting those ID's and 2
25 percent had been physically assaulted due to

1 presenting that ID.

2 I do think it's important to note that
3 those were more common among trans people of color
4 including black trans people and American Indian
5 trans people.

6 Q. What sort of situations do transgender people
7 typically have to show ID?

8 A. People have to show ID when accessing spaces that
9 have security screenings. So government buildings,
10 when traveling of course, accessing health care,
11 educational settings, when seeking employment. In
12 any of these settings that name can be broadcast
13 out, like in a health care waiting room, when your
14 name might be called out in front of a room of
15 people, who now all know that the person is
16 transgender. And I think that speaks to a moment of
17 stigma and discrimination, even if somebody doesn't
18 face an outwardly negative reaction when they
19 present that ID. There's still distress related to
20 being outed, even if not met with harassment.

21 Q. What impact if any do these experiences of
22 discrimination have on transgender people's health?

23 A. So there's a very wide body of research, both in
24 transgender populations but in other populations too
25 that shows that experiences of harassment, of

1 discrimination in employment or education, and of
2 course experiences of violence have health
3 consequences. Most obviously on mental health, but
4 also on physical health. In part because people
5 have avoided health care because of these
6 experiences of discrimination.

7 Going back to the data source I mentioned
8 earlier, the US Trans Survey, found that 23 percent
9 of trans people had avoided medical care because
10 they worried about discrimination. And that had an
11 impact of their health care needs.

12 Q. Are there any other situations that transgender may
13 try to avoid out of fear of discrimination?

14 A. Yes. So the one thing I forgot to mention is how
15 pervasive this avoidance is. So in the study that I
16 conducted in Canada in 2019, we had 2900 research
17 participants. And we asked them, in the last five
18 years have you avoided public spaces or situations
19 because you were worried as being outed as trans, or
20 because you feared being harassed. And 84 percent
21 responded that they had avoided those situations.
22 And those included like going to the gym, going to a
23 school, international travel, public transit. All
24 types of situations. Other relevant things like
25 civil participate such as voting and getting

1 married.

2 Q. Does that avoidance have any impact on transgender
3 health?

4 A. We know broadly in the field of social epidemiology
5 when there's more robust findings, that social
6 support and participation are really important for
7 promoting health and mental health. And when people
8 are avoiding those social interactions, for example
9 avoiding bars or restaurants because they have to
10 show ID. Especially during the pandemic there's
11 more need to show identification. The people that
12 are avoiding the social situations, that's likely to
13 be detrimental for their mental health.

14 Q. So conversely, how if at all does getting a name
15 change impact the health of transgender people?

16 A. I think there are two major ways in which a name
17 change improves the health of trans people. One is
18 avoiding discrimination. And the other is more
19 positive and affirming in that being consistently
20 referred with someone's true chosen name. It
21 promotes mental health. And there's studies that
22 support this. I will share two of them.

23 The first one is a study that I conducted
24 using data from the US Trans Survey that I mentioned
25 earlier. It was published in the Public Health in

1 2020. And we looked at whether or not somebody had
2 their chosen name on some, on all or none of their
3 records. And we found that people who had their
4 preferred name on all of their ID's, they were 18
5 percent less likely to meet criteria for serious
6 psychological distress. They were 11 percent less
7 likely to have seriously considered suicide in the
8 past year. And they were 18 percent less likely to
9 have made a plan to die by suicide in the past year.
10 And when you consider the trans people experience,
11 there's a quite elevated rate of psychological
12 distress, depression and suicide. So being able to
13 see a reduction in those is really important.

14 There's another study that corroborates
15 those findings. It was published in Social Science
16 and Population Health. It was published last year
17 as well looking at adults in Massachusetts and Rhode
18 Island. And that would go to having been able to
19 change the name on both their driver's license and
20 their passport, they were again less likely to be
21 depressed and less likely to consider suicide.

22 There's also evidence from adolescence.
23 It's a study that looked not at legal name changes,
24 but at chosen name usage in daily life. And it
25 found that adolescents whose chosen name was used in

1 across school, peer and family contexts had the best
2 mental health outcomes, as compared to other
3 transgender young people, for being consistent in
4 people's life.

5 Q. Is there any evidence about the impact of name
6 changes in transgender people's access to
7 employment?

8 A. Yes. So there's a study that was done -- one of the
9 few places that actually had a control group, was
10 comparing people, transgender women of color
11 specifically, who were in the process but had not
12 yet obtained a legal name change and a person who
13 had a legal name change nine months previously. It
14 found that those who had a legal name change were
15 more likely to be employed, they had higher incomes,
16 they were more likely have their own housing. And
17 they were less likely to postpone needed medical
18 care. And I think those statistics all support what
19 I said earlier, around the people having various
20 employments because of the name of their ID.

21 Q. Is obtaining a name change relevant to treatment for
22 gender dysphoria?

23 A. Yes. As I mentioned previously, one of the
24 dimensions of gender affirmation -- the treatment
25 for gender dysphoria is legal gender affirmation.

1 The gender marker on somebody's ID as well as the
2 name.

3 Q. In your professional opinion, what are some of the
4 reasons why transgender people typically seek a name
5 change?

6 A. I have two major groups of reasons. One of which is
7 to avoid the types of stigma, discrimination and
8 violence that can result. And the other is more
9 positive because who doesn't want to be called by
10 the name that they use in all aspects of their life.
11 I think it's something that non-transgender people
12 take for granted. It's quite jarring and
13 distressing to be repeatedly referred to by a name
14 that is not yours, that doesn't reflect who you are.
15 And personally, to finally that name that you often
16 struggle to have to be used consistently.

17 Q. Would you just briefly summarize the relationship
18 between transgender health and name changes?

19 A. Based on all the research up to date, we find that
20 having access to legal name change or having their
21 chosen name reflected on your legal documentation,
22 it's associated with improved mental health, lower
23 risk of psychological distress, depression and
24 suicide. And it was evidenced that it improves
25 outcomes in housing and employment and income, which

1 we know in turn, are strong predictors of health.

2 Q. Do you have an opinion about whether the testimony
3 of the petitioners today is consistent with the
4 research in this area?

5 A. I definitely think that the testimony today was
6 quite consistent with what I've seen in the
7 literature.

8 Q. Can you explain how?

9 A. I think we heard -- I mentioned earlier that in the
10 US Transgender Survey for example, there was
11 respondents who had showed an ID that didn't match
12 their gender had experienced physical assault, but
13 the rates are also higher for people of color. And
14 I think clearly that horrific experience that
15 Chauntey had at the bar she went to, it shows the
16 danger that people can be in when they have an ID
17 that outs them as trans to other people.

18 I think health care avoidance is such an
19 important issue for transgender populations. In
20 Priscylla's experience, not necessarily we can't
21 reasonably avoid care, but sometimes it's absolutely
22 necessary. The fact that people can, every time you
23 go to a new provider, have that disclosure, it can
24 lead people to really try to minimize their health
25 care encounters and even avoid care when it's

1 medically necessary.

2 Another study that I conducted in Canada,
3 we found that 20 percent of transgender people in
4 Ontario, Canada had avoided emergency care when they
5 thought they needed urgent care because they were
6 worried about being mistreated.

7 MR. ARKLES: No further questions.

8 THE COURT: Dr. Scheim, do you hold
9 that opinion to a reasonable degree of
10 professional certainty?

11 THE WITNESS: I do, yes.

12 MR. YINGLING: Your Honor, I'm happy to
13 provide argument from the table. Would it be
14 okay with the Court if I moved the podium in
15 front of the table and address the Court from
16 there?

17 THE COURT: Sure.

18 MR. YINGLING: Thank you, Your Honor.
19 Pennsylvania legislature created the Felony
20 Bar in 1998. It prevents Pennsylvanians with
21 certain felony convictions from ever
22 obtaining a name change, no matter the reason
23 for that name change. The Felony Bar is
24 based on an irrebuttable presumption that
25 individuals convicted of these felonies, are

1 always seeking a name change for a fraudulent
2 or otherwise improper purpose. The Felony
3 Bar is unconstitutional not simply because it
4 infringes multiple rights under the
5 Pennsylvania Constitution, but because it
6 infringes these rights without advancing the
7 Commonwealth's interest in preventing
8 fraudulent name changes. That's because the
9 name change statutes includes multiple
10 safeguards that are frankly much better
11 suited than the Felony Bar to root out fraud.

12 Specifically, separate and apart from
13 the Felony Bar, as evidenced by what has
14 happened and what is happening in this case.
15 Any Pennsylvanian who seeks a name change
16 must one, provide a fingerprint card to the
17 State Police, so that the State Police know
18 the person is seeking a name change and can
19 run a background check. Two, publish notice
20 of a name change hearing and two newspapers
21 of general circulation in the county. Three,
22 present the Court with a judgment search
23 showing that the individual has no money
24 judgments against them in any county in which
25 they have lived in the last five years.

1 Four, answer the Court's questions based on
2 objections from third parties and otherwise.
3 And finally, after the name change is
4 ordered, provide a notice of the name change
5 to the Pennsylvania Attorney General, the
6 Pennsylvania State Police and the local
7 county prosecutor.

8 These safeguards are specifically
9 focused at limiting fraud in the name change
10 process. The Felony Bar context is broadly
11 categorical. And given the safeguards that
12 already exist in the statute, the Felony Bar
13 has the effect of unnecessarily prevents name
14 changes for individuals who have legitimate
15 reasons for that name change. Individuals
16 like Ms. Porter, like Ms. Von Noaker, who
17 seek a name change so that their legal name
18 can match the gender identity and appearance.

19 We can think of other examples.
20 Individuals with felony convictions who a
21 name change for religious purposes.
22 Individuals with felony convictions who seek
23 a name change for family ties because of
24 changing family relationships. These are
25 legitimate reasons, but the Felony Bar

1 categorically prohibits them regardless of
2 individual assessment.

3 Now, in our brief we have laid out the
4 different legal frameworks that show the
5 Felony Bar to be unconstitutional under
6 Pennsylvania Constitution Article 1 Section
7 1, which deals with the due process. The
8 most straightforward is the irrebuttable
9 presumption test. A test that has been
10 developed in Pennsylvania perhaps more than
11 any other jurisdiction. The Commonwealth
12 Court has explained that irrebuttable
13 presumptions often run afoul of
14 Pennsylvania's due process guarantee, because
15 they infringe on rights by using a
16 presumption that the existence of one fact,
17 is statutorily conclusive of the existence of
18 another fact.

19 The Pennsylvania Supreme Court has
20 clarified that a irrebuttable presumption
21 like the Felony Bar is unconstitutional when
22 three elements are satisfied. One,
23 presumption affects a due process interest.
24 I want to note that the case law clarifies
25 that a relevant inquiry is an interest and

1 not necessarily a fundamental right. Two,
2 the presumption is not universally true. And
3 three, reasonable alternatives exist to
4 ascertain the presumed fact.

5 The irrebuttable presumption test has
6 been used multiple times by the Pennsylvania
7 Supreme Court, the Pennsylvania Superior
8 Court and the Pennsylvania Commonwealth
9 Court, especially in recent years, to hold
10 that the statutory provisions violate the
11 Pennsylvania Constitution. If the Court will
12 allow, I will just briefly describe four of
13 those relevant cases because I think they
14 provide insight as to how the irrebuttable
15 presumption test would operate in this case.

16 Department of Transportation v.
17 Clayton, Pennsylvania Supreme Court 1996.
18 The law of issue prevented anyone who had a
19 seizure within the last year from operating a
20 vehicle based on the presumption that these
21 individuals posed danger to others on the
22 road. Pennsylvania Supreme Court held that
23 this law was unconstitutional because it
24 affected the individual's due process
25 interests of operating a vehicle, the

1 presumption was not universally true and
2 reasonable alternatives existed to ascertain
3 whether these individuals pose a danger to
4 others on the road.

5 The next case is *Enway JB*, Pennsylvania
6 Supreme Court 2014. This case deals with the
7 SORNA law and juveniles under the law. It
8 requires that juveniles convicted of sexual
9 offenses must register on a sex offender
10 registry, based on the presumption that these
11 juveniles were at high risk. Pennsylvania
12 Supreme Court held that this presumption
13 affected the juvenile's due process interest
14 and inquiring, possessing and protecting the
15 reputation. It was not universally true and
16 reasonable alternatives existed to ascertain
17 whether the individuals were at high risk.

18 The next case is *Peak v. Commonwealth*,
19 Commonwealth Court 2015. The law at issue
20 prevented individuals convicted of certain
21 felonies from ever working in the care of
22 older adults, based on the presumption that
23 these individuals posed a danger to adults
24 in elder care facilities. The Commonwealth
25 Court held that this presumption affected the

1 individuals process interests in seeking
2 employment. It was not universally true and
3 reasonable alternatives existed to ascertain
4 the presumed fact.

5 Finally and most recently, Commonwealth
6 v. Mohammed, Pennsylvania Superior Court
7 2020. This was also a case dealing with the
8 SORNA law. This dealt with adults. And it
9 was an "as applied ruling". The irrebuttable
10 presumption test can be applied both as a
11 facial challenge that we have here, and as an
12 as applied challenge as we also have here.
13 The Court held that the presumption that
14 adults convicted of sex crimes are at high
15 risk, affected their due process interests in
16 the reputation, it was not universally true
17 for this particular individual, and
18 reasonable alternatives existed to ascertain
19 the presumed fact for this particular
20 individual.

21 As in the cases just described, all
22 three elements of the irrebuttable
23 presumption test are satisfied here. First,
24 at a minimum, the Felony Bar affects a due
25 process interest. In fact it does more than

1 that. It affects multiple fundamental due
2 process rights, including the due process
3 right to independence and making important
4 private decisions. The due process rights to
5 protect and not disclose highly personal
6 matters. And the due process right to
7 acquire, possess and protect one's
8 reputation. The Court, however, need not
9 hold that a fundamental right is at stake in
10 order to rule for the petitioners here and
11 hold that the Felony Bar violates the
12 Pennsylvania Constitution. And that's
13 because as noted earlier, the first element
14 of the irrebuttable presumption test is
15 focused on a due process interest.

16 We know from both two of the cases
17 discussed earlier, that this due process
18 interest does not need to be a fundamental
19 right. I'm speaking of the Clayton case in
20 which the due process interest at stake was
21 operating a vehicle, not a fundamental right.
22 And the Peak case in which the due process
23 interest was seeking employment, also not a
24 fundamental right.

25 Here just as much as Pennsylvanians

1 enjoy a due process interest in operating a
2 motor vehicle and seeking employment, they
3 have a due process interest in controlling
4 their own names. In this regard, I think
5 it's important to note that Pennsylvanian's
6 recognized interest in controlling their own
7 name is not something that was created by a
8 statute. It is something that
9 Pennsylvanian's have always had. And the
10 Pennsylvania Supreme Court addressed this
11 specific point well over 100 ago in 1892 in a
12 case called Laughlin that I discussed in my
13 brief.

14 The Court noted that Pennsylvanian's
15 always have had an inherent recognized
16 interest in controlling their name, and
17 changing their name. And when the name
18 change statute was enacted for the first time
19 in 1852, it was enacted in aid of this
20 recognized interest that already existed. It
21 was used to mark a point in time in which
22 that name change officially became the
23 person's legal name.

24 So at a minimum, the Court can have
25 confidence that we are dealing with a due

1 process interest here when we're talking
2 about controlling one's name or changing
3 one's name. So that's all the first element
4 of the irrebuttable presumption test.

5 The second element is the presumption
6 being not universally true. We know that
7 that's it's not universally true that all
8 individuals with a felony conviction who are
9 seeking a name change are doing so for a
10 fraudulent purpose. We know that based on
11 the testimony that we heard today. I think
12 that the Commonwealth Court's process of
13 analyzing this element in the Peak case, you
14 may remember the case where the law prevent
15 individuals with felony convictions from
16 working in the care of older adults. The
17 Court said, it defies logic to suggest that
18 every person who at any time has been
19 convicted of any of these crimes, presents a
20 danger to those in elder care facilities. It
21 also defies logic to suggest that every
22 person convicted of one of these felonies in
23 the Felony Bar when they are seeking a name
24 change, is seeking a name change for a
25 fraudulent or otherwise improper purpose.

1 The third element of the irrebuttable
2 presumption test satisfied here is that
3 reasonable alternatives exist to ascertain
4 the presumed fact of whether an individual is
5 seeking a name change for a fraudulent
6 purposes. We don't have to speculate as to
7 what these reasonable alternatives are,
8 because they already exist in the name change
9 statute. They are the five specific
10 safeguards that ensure that fraud does not
11 make its way into the process. That was the
12 irrebuttable presumption test. It is one
13 test that the Court can use to hold that the
14 Felony Bar is unconstitutional.

15 There is a separate and independently
16 sufficient test that is traditionally used
17 when we're talking about a violation of due
18 process rights. As the Pennsylvania Supreme
19 Court has explained on a number of occasions,
20 but in particular in *Nixon v. Commonwealth*
21 from 2003, "anytime a law infringes on
22 certain rights that are considered
23 fundamental, like the right to privacy, like
24 the right to protect one's reputation, that
25 law must be subject to scrutiny". That is,

1 the Commonwealth must come forward with a
2 compelling interest. And it must show that
3 it means that interest is narrowly tailored
4 to make a final choice.

5 As the Pennsylvania Supreme Court has
6 described it, the Commonwealth must show that
7 it's the least drastic means possible to
8 achieve this goal. Here, the Commonwealth
9 cannot claim that the Felony Bar passes
10 strict scrutiny because it certainly does not
11 represent the least drastic means to achieve
12 the goal of limiting fraud for the reasons
13 that we discussed.

14 Finally, in addition to the due process
15 reasons for the challenge to the Felony Bar
16 here, we also have a compelled speech
17 argument. This concerns a different
18 provision of the Pennsylvania Constitution.
19 It's Article 1, Section 7. And as an initial
20 point, I would just note that the
21 Pennsylvania Supreme Court has made clear, in
22 particular in a case called *Western*
23 *Pennsylvania Socialist Workers* from 1986,
24 that our guarantee of free speech is even
25 greater than the analogous guarantee of free

1 speech that exists under the First Amendment
2 to the US constitution. We are not bound by
3 Supreme Court cases on the First Amendment,
4 but we can use them as guidance and determine
5 the scope of the right that exists under the
6 Pennsylvania Constitution. And because of
7 this, the Pennsylvania Constitution like it's
8 federal counterpart, protects not only the
9 right to speak freely, but also the right not
10 to speak at all. That is, the right not to
11 have one's speech compelled.

12 The Felony Bar compels speech because
13 when Pennsylvanian's cannot change their
14 name, they must present an unwanted name
15 every time they vote for the first time in a
16 precinct, travel overseas, drive, enter a
17 government building and many of the other
18 reasons discussed during the testimony today.
19 A lot of compelled speech like this is
20 subject to strict scrutiny. This law cannot
21 pass with you.

22 I would just end by saying that the
23 name change statute will operate perfectly
24 and constitutionally, if this Court holds
25 that the Felony Bar is unconstitutional and

1 grants the name change. I would respectfully
2 ask this Court to hold that the Felony Bar is
3 unconstitutional under the Pennsylvania
4 Supreme Court and grant both the name change
5 petitions of Ms. Porter and Ms. Von Noaker.
6 And without presuming either way how the
7 Court would rule, and this is given the
8 impact of such a ruling, we would ask the
9 Court to enter an opinion or issue an opinion
10 describing why the Felony Bar fails to meet
11 the Pennsylvania constitutional guarantee of
12 due process and/or free speech.

13 THE COURT: Thank you, Mr. Yingling.
14 In lieu of writing the opinion and provide it
15 under the Pennsylvania jurisprudence, this
16 Court will now render a decision on the
17 record here today. Based upon the testimony
18 of the fact witnesses given today and the
19 expert testimony and the opinion rendered by
20 Dr. Scheim and the legal arguments of
21 counsel, this Court concludes the
22 Pennsylvania Felony Bar to a name change is
23 unconstitutional as violation to due process
24 as well as the other two grounds argued by
25 counsel today. With that Mr. Vose, do you

1 have a petition for the Court?

2 Ms. Porter, I will ask you to rise,
3 please.

4 MR. VOSE: Good afternoon, Your Honor.
5 Greg Vose on behalf of the petitioner. We
6 filed a petition before this Court, conducted
7 a criminal background, conducted a judgment
8 search of each of the counties where the
9 petitioner has resided in the past five
10 years. Based on this Court's ruling, we
11 request that this Court grant the name
12 change.

13 THE COURT: Ms. Porter, I'm very glad
14 to grant your petition today. And your
15 decree will read as follows. And now this
16 15th day of December 2021, upon hearing the
17 petition, appearing that all requirements
18 have been met for a name change, and it also
19 appears that there's no legal objections to
20 the granting of this petition. Therefore,
21 it's hereby ordered and decreed that the name
22 of the petitioner is, from and after this
23 date, changed to Chauntey Monique Porter.
24 Congratulations.

25 Mr. Roman, do you have a petition for

1 the Court?

2 MR. ROMAN: I do. Good afternoon, Your
3 Honor. Zach Roman on behalf of the
4 petitioners. We filed a petition with this
5 name change court. We have proof of
6 publication in two newspapers in general
7 circulations, conducted a judgment search in
8 Allegheny County, and no money judgment in
9 which the petitioner has lived during the
10 past five years. We also conducted a
11 background check. Obviously a criminal
12 record was found, but given this Court's
13 ruling today, we ask that the Court grant the
14 petition for a name change to change the
15 petitioner's name to Priscylla Renee Von
16 Noaker.

17 THE COURT: Ms. Van Noaker, I am
18 pleased to grant your petition for a name
19 change today. And your decree will read as
20 follows. And now this 15th day of December
21 2021, upon hearing the petition, and hearing
22 that all requirements have been met for a
23 name change and it also appears that there's
24 no legal objections to the granting of this
25 petition. Therefore, it's hereby ordered and

1 decreed that the name of the petitioner is,
2 from and after this date, changed to
3 Priscylla Renee Von Noaker. Congratulations.

4 I want to thank counsel for excellent
5 briefing, excellent arguments, good
6 presentation of the fact witnesses and the
7 expert witness. And really stellar arguments
8 of counsel. Congratulations to the folks
9 that got their name change today. And
10 everybody have a great day. This hearing is
11 concluded.

12 - - -

13 (Whereupon, the proceedings were concluded.)

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COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY)

CERTIFICATE OF REPORTER

I, Jed H. Reifer, an Official Court Reporter, do hereby certify that the evidence and proceedings are contained fully and accurately in the machine shorthand notes taken by me at the hearing of the within cause, and that the same were transcribed under my supervision and direction, and that this is a correct transcript of the same.

Jed H. Reifer
Official Court Reporter