The Phyllis Schlafly Report

Federal Judges Side with Transgender Agenda

By John and Andy Schlafly

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On Tuesday a 2-1 Democrat majority of the U.S. Court of Appeals for the Fourth Circuit invalidated a good West Virginia law protecting girls' sports against invasion by male-bodied transgender students. The Richmond-based tribunal held that West Virginia's Save Women's Sports Act violates the federal Title IX law, which was enacted to protect girls' sports, and also that West Virginia's protection of girls' sports may further violate the Constitution.

The Biden-appointed judge who wrote this absurd decision repeatedly used the propaganda term "sex assigned at birth," as if sex were arbitrary and merely "assigned" to a newborn. On the contrary, biological science teaches that sex is determined long prior to birth, and does not change.

The transgender issue is boiling over in the courts. The U.S. Supreme Court, after earlier dodging this same transgender case and at least two others, sat on an emergency application by Idaho for an unusually long time of nearly two months before rendering a decision Monday that ducked the substance of a conservative Idaho law.

Two dozen states, including Idaho, have enacted laws protecting children against transgender operations and treatment, while the Supreme Court sidesteps the issue. Most of these laws have been challenged in federal courts by groups pushing the trans agenda, and the day after last Christmas a Clinton-appointed judge ordered a sweeping injunction blocking enforcement of Idaho HB 71.

But rather than affirm the authority of states to protect vulnerable children against irrevocable medical interventions, the Supreme Court instead rendered merely a procedural decision that cautioned against overly broad injunctions. In splintered opinions that Chief Justice Roberts refused to join, the Court reined in the Idaho federal district court without addressing the substance of the law.

There are billions of dollars at stake in profits from medical interventions for transgender purposes, and anyone in higher education who criticizes this lucrative field would risk losing career opportunities. By a wide margin, the most pro-transgender

jurisdiction in our country is Washington, D.C., which might explain why the GOP-controlled House and Supreme Court have been so weak on this issue.

Three years ago Arkansas was the first state to ban transgender procedures on children, yet federal courts have still not allowed its good law to take effect. In an en banc sitting of 10 judges on the Eighth Circuit last Thursday to review this law, nearly all of the Republican-appointed judges were unwilling to ask substantive questions of the ACLU attorney for the transgender plaintiff.

With Republican-appointed judges silent as though on the sidelines, the questioning was dominated by the court's most liberal member, Obama-appointed Judge Jane Kelly, who apparently thinks the Arkansas law somehow discriminates on the basis of sex. Such a ruling by the court would trigger the difficult-to-satisfy standard of heightened scrutiny, by which legislation is typically invalidated.

Leftists who deny sex differences try to invalidate laws they don't like by concocting arguments that they are discriminatory. Meanwhile the transgender culture holds a grip on D.C., and on most federal courts which depend on liberal law schools for their clerks.

On Friday, the Democrat governor of Kansas vetoed a bill protecting minors against transgender treatments and surgeries, even though a similar bill has passed in half of our country, overriding the governor's veto in four states. Laws enacted in Kentucky and Tennessee were upheld by an appellate court, while a similar law in Alabama was reinstated by a different appellate court because the district court applied an incorrect standard to block it.

Republicans have a veto-proof majority in the Kansas state senate, but the vote will be close in its state house. The outcome may depend on which legislators happen to be in attendance on the day that an override vote is held there.

Trump held a spectacular rally on Saturday evening in northeast Pennsylvania, considered by Biden to be his backyard where he grew up. There is even a President Biden Expressway in nearby Scranton, although a petition to restore the highway's original name has attracted 17,000 signatures.

Trump attracted a vast overflow crowd on the chilly evening, withstanding a blustery wind that created challenges for Trump's airplane to land there. Trump scored

many points talking about energy, explaining how Biden's war on coal and oil have caused runaway inflation and hurt many in Pennsylvania.

Trump courageously spoke out against the trans agenda, and vowed to cut off funding of schools that impose transgender indoctrination on students. Trump included the trans agenda along with critical race theory as propaganda which the federal government should not be funding.

Trump is the first major candidate to pledge to defund schools that mislead our children with transgender and other leftist ideologies. It is increasingly necessary to use the power of the purse to stop the transgender train.

John and Andy Schlafly are sons of Phyllis Schlafly (1924-2016) and lead the continuing Phyllis Schlafly Eagles organizations with writing and policy work.