The Phyllis Schlafly Report

Skrmetti and More Transgender Cases

By John and Andy Schlafly

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The 6-3 affirmance by the U.S. Supreme Court in *U.S. v. Skrmetti* on June 18 was a decisive defeat for the transgender movement. The Court fully upheld a good Tennessee law banning transgender operations and treatments in children, and this conservative decision went further than it had to by declaring the law constitutional.

The pro-transgender side brought this appeal, apparently hoping for a Supreme Court ruling that would invalidate the Tennessee law and similar laws in at least 24 other states. Instead, the Court opens the door to additional states banning these surgeries and drug treatments.

Strident dissents by liberal justices on the Supreme Court are becoming a familiar pattern as 6-3 conservative decisions become the norm. On Monday, the same 3 liberal justices dissented with extreme dismay at a brief order by the Court majority that allows Trump to deport criminal migrants to other countries when their own country of origin won't take them back.

The last election resolved the transgender and immigration issues as Trump campaigned on them at every rally. The Democrat Party ran and lost as the party that is pro-transgender and pro-illegal immigration, and no one should be genuinely surprised that the majority on the Supreme Court is rejecting the Democrats' positions now.

Some liberals have been hopeful of bringing Justice Amy Coney Barrett to their side, after she ruled against Trump a couple of times. But her concurring opinion in *Skrmetti* last week was a complete rejection of the notion that there is any constitutional right that protects being transgender or transitioning to the opposite sex.

As a result of the Civil War and the 14th Amendment, racial discrimination gets special scrutiny from the courts. Justice Barrett flatly rejected giving that sort of scrutiny to laws touching on transgender issues, and Justices Thomas and Alito agreed with her.

On Friday, the Eleventh Circuit, while considering the issue of court-ordered taxpayer funding of transgender treatments for a county employee in *Lange v. Houston County*, immediately requested supplemental briefing on the impact of the *Skrmetti* decision on this

case from Georgia. An initial panel of that court had ordered the county, and thus the taxpayers, to fund these medical procedures, but that ruling is being reconsidered by the full court on which Republicans have a 7-5 majority.

Skrmetti is not even the only transgender case being decided by the Supreme Court this month. The case of *Mahmoud v. Taylor* has proven to be as contentious for the High Court to decide.

In *Mahmoud*, a group of Muslim and Christian parents object to the indoctrination of their children in public school about transgender and sexuality issues without the parents' consent, and without the parents even receiving advance notice. This is where the transgender issue is resolved long-term: whether schools can brainwash kids about it, rewarding pro-transgender answers with an "A" while penalizing students who disagree.

There should be an even larger majority of Justices on the side of parents who object on religious grounds to LGBTQ+ indoctrination in this upcoming *Mahmoud* decision as there was on the side of Tennessee in *Skrmetti.* During an exhausting oral argument that lasted nearly two-and-a-half hours in April, none of the Justices could point to any harm in letting parents opt out of this indoctrination.

But parents need advance notice before they can opt out, and public schools are not doing that. One of the objectionable books being taught was about a puppy who got lost during a Pride Parade, which is a clever way to make students comfortable with these parades that promote transgender lifestyles.

Ordinarily very few parents exercise the existing rights that they have today in many states to pull their children out of objectionable instruction relating to sex or health. The opt-out process can be cumbersome and parents who object the most have already taken their kids out of public schools.

Requiring public schools to give the community notice of these objectionable materials would be helpful, as then taxpayers could see what their high property taxes are being spent on. Lower reading and math scores in schools should be of concern to taxpayers, and so should high amounts of objectionable indoctrination.

Biden-appointed Ninth Circuit Judge Jennifer Sung wrote a decision for that left-leaning court in favor of Oregon schoolteachers who had been fired for objecting to the transgender ideology being imposed in schools there. The district court had dismissed the lawsuit by these

schoolteachers, but the Ninth Circuit held in their favor and reinstated the case, captioned *Damiano and Medart v. Grants Pass School District No. 7*.

The school board later reinstated the teachers to different positions that were inferior to the ones they had before they spoke out. The courageous teachers had used their own electronic devices, on their own time, to promote the "I Resolve" campaign with resolutions for ending restroom access by the opposite anatomical sex and stopping the practice of schools using a gender-different name for a child without parental consent.

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