

No. 26-120

IN THE
Supreme Court of the United States

GAYS AGAINST GROOMERS, *et al.*,

Petitioners,

v.

LORENA GARCIA, INDIVIDUALLY AND AS A
COLORADO STATE REPRESENTATIVE, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

**BRIEF OF *AMICUS CURIAE*
WOMEN'S DECLARATION INTERNATIONAL USA
IN SUPPORT OF PETITIONERS AND REVERSAL**

KARA DANSKY

Counsel of Record

P.O. Box 21160

Washington, DC 20009

(833) 670-2474

president@womensdeclarationusa.com

Counsel for Amicus Curiae

August 5, 2026

TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	ii
INTRODUCTION AND INTEREST OF <i>AMICUS</i>	1
SUMMARY OF ARGUMENT.....	3
ARGUMENT.....	5
I. There is no such thing as “misgendering,” and respondents were wrong to impose the restrictions it placed on petitioners and other witnesses	5
II. The concept of “gender identity” is very unpopular, especially once people come to understand that it denies the material reality of sex. This is why some state actors, including respondents, feel compelled to force people to use language that obscures reality, and with which they disagree.....	11
III. Women must have the right to freedom of opinion and expression, including the right to oppose gender (including “gender identity”).....	13
CONCLUSION	15

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Frontiero v. Richardson</i> , 411 U.S. 677 (1973)	5
<i>Price Waterhouse v. Hopkins</i> , 490 U.S. 228 (1989)	7
<i>Tennessee et al. v. Cardona et al.</i> , No. 2024-cv-00072 (E.D. Ky. 2024)	6
<i>United v. Skrmetti</i> , 605 U.S. 495 (2025)	2
<i>West Virginia v. B.P.J.</i> , No. 24-43, slip op. (U.S. June 30, 2026)	2, 5, 6
Statutes	
20 U.S.C. §1681, <i>et seq.</i>	5
Colo. H.B. 24-1071 (2024)	3, 5
International authorities	
Declaration on Women’s Sex-Based Rts.	1, 2, 13, 14
Hate Crime and Public Order Act, 2021 (asp 14) (Scotland)	9, 10

Cited Authorities

	<i>Page</i>
Other materials	
KC Clements, “What Does It Mean to Misgender Someone?” HEALTHLINE (Sept. 18, 2018)	9
Kara Dansky, THE RECKONING: HOW THE DEMOCRATS AND THE LEFT BETRAYED WOMEN AND GIRLS (Bombardier Books, 2023)	12
Mackenzie Tatananni, “Trans rights activists shout ‘F**k the TERFs’ as clash with radical feminist group hosting conference at San Francisco Hilton leads to physical assaults and spray-painted storefronts” THE DAILY MAIL (Sept. 17, 2023)	13
Matt Lavietaes, “J.K. Rowling will not be arrested for comments about transgender women, police say” NBC NEWS (April 2, 2024)	10
Melissa Koenig, “JK Rowling vows to defend women eyed by cops for misgendering trans people after daring police to arrest her” NEW YORK POST (April 3, 2024)	10
Merriam-Webster “Misgendering”	8
Ray Blanchard, “The concept of autogynephilia and the typology of male gender dysphoria” JOURNAL OF NERVOUS AND MENTAL DISEASE, 177(10), 616-623 (October 1989)	8

Cited Authorities

	<i>Page</i>
SurveyUSA, “Strong Majorities Prefer Female-Only Interactions for Women, Girls in Athletics, Restroom, Other Situations” (Sept. 28, 2023)	11
Thomas B. Edsall, “Why Are So Many Democratic Politicians So Far Out of Touch?” THE NEW YORK TIMES (March 24, 2026)	12

INTRODUCTION AND INTEREST OF *AMICUS*¹

Women’s Declaration International is a global organization of women working to advance the Declaration on Women’s Sex-Based Rights, which reaffirms women’s and girls’ sex-based rights and challenges the discrimination we experience from the replacement of the category of sex with that of “gender identity” (the Declaration).²

The Declaration comprises nine articles. Article I reaffirms that the rights of women are based on the category of sex.³ Article IV reaffirms women’s right to freedom of opinion and expression. It states that women’s right to hold and express opinions without interference “should include the right to hold and express opinions about ‘gender identity’ without being subject to harassment, prosecution or punishment.”⁴

Amicus is the U.S. chapter of this global organization (WDI USA). It is a nonpartisan organization that is grounded in radical feminism. We are women from every walk of life—from law and government to the hard

1. This brief is filed earlier than 10 days before the due date. Accordingly, the notice to counsel required by Rule 37.2 is not required. No counsel for a party authored the brief in whole or in part. No counsel for a party made a monetary contribution intended to fund the preparation or submission of the brief. No person or entity, other than the *amicus curiae*, its members, or its counsel, made a monetary contribution to the preparation or submission of the brief.

2. Declaration on Women’s Sex-Based Rts. (“Declaration”).

3. *Id.* Article I.

4. *Id.* Article IV.

sciences, the culture-shaping professions, and the nation-building trades. We are lesbians, straight women, and bisexual women. We are mothers and child-free women. We are women of all races, ethnicities, and religions. Our supporters generally consider themselves to be liberal, very liberal, or progressive. Of the roughly 7100 U.S. signatories to the Declaration, around 30 percent are Democrats and 34 percent are Independents (many having left the Democratic Party due to opposition to the Party's support for "gender identity"). Seven percent are Republicans and the rest are either unaffiliated or prefer not to say.

As a radical feminist organization, our priority is the sex-based rights of women and girls. However, we support all petitioners' right to hold and express the view, including through use of language, that sex is real, material, and unchangeable.

Amicus is very familiar with matters pertaining to sex and "gender identity." With respect to these topics, *amicus* has filed *amicus* briefs in over half of the federal Circuit Courts of Appeal and before this Court in the matters of *United v. Skrametti*, 605 U.S. 495 (2025) and both *Little v. Hecox* and *West Virginia v. B.P.J.*, No. 24-43, slip op. (U.S. June 30, 2026).

In view of its work on these issues, WDI USA has a meaningful perspective to offer the Court.

SUMMARY OF ARGUMENT

This case concerns the right of witnesses giving public testimony to use accurate language in that testimony. The context: public witnesses engaged in acts of “misgendering” while testifying against “Tiara’s Law,” Colo. H.B. 24-1071 (2024) (the Name Change to Conform with Gender Identity law). Elected officials interrupted, admonished, and cut-off the witnesses, and, in one case, erased testimony from the public record.

H.B. 24-1071, which has since become law, adds “gender identity” to the list of reasons under which a convicted felon is permitted to change her or his name. Some witnesses were specifically concerned that this would make it easier for sex offenders to hide their criminal records.

First, there is no such thing as “misgendering.” *Amicus* is a radical feminist organization. For radical feminists, “gender” refers to sets of restrictive stereotypes that are imposed on people on the basis of sex. Men are expected to be dominating and rational. Boys are expected to play with trucks and like the color blue. Women are expected to be demure and emotional. Girls are expected to play with dolls and like the color pink. Radical feminists seek to abolish these sets of stereotypes.

Amicus maintains that so-called “gender identity” is nothing other than a belief system that is divorced from the material reality of sex. Therefore, *amicus* and other radical feminists do not accept the concept of “misgendering” and do not refer to people using opposite-sex language. Radical feminists maintain that in order

to advance the movement to liberate women, society has to be able to accurately identify who the women are and who the men are.

Second, Americans across the political spectrum know what a woman is and what a man is. As explained in Section II, *infra*, in polling that *amicus* commissioned in 2023, four out of five voters agreed that the word “women” means “adult humans who are biologically female.”

It is the contention of *amicus* that government entities such as the respondents in this matter have to *force* people to go along with so-called “gender ideology,” even if they do not believe in it, by silencing and/or punishing people who speak out about it, as respondents did here.

Third, everyone, including petitioners in this case, should have the right to describe others on the basis of their sex rather than their “gender identity” in all contexts. Government entities should recognize that attempts by state agencies, public bodies, and private organizations to compel individuals to use terms related to “gender identity” rather than sex are *themselves* a form of discrimination against women, including against petitioner Christina Goeke.

For all of these reasons, *amicus* urges the Court to grant *certiorari* in this matter.

ARGUMENT

Again, this case concerns the right of witnesses giving public testimony to use accurate language in that testimony. While testifying against H.B. 24-1071, public witnesses engaged in acts of “misgendering.” Elected officials interrupted, admonished, and cut off the witnesses, and, in one case, erased testimony from the public record because of said “misgendering.”

I. There is no such thing as “misgendering,” and respondents were wrong to impose the restrictions it placed on petitioners and other witnesses.

In order to understand what is even happening in this case, it is important to understand the concept of “misgendering,” which, in turn, requires an understanding of what the words “sex” and “gender” mean.

This Court knows what the word “sex” means. “The term ‘sex’ in the 1972 Title IX statute, the 1974 Javits Amendment, and the 1975 Title IX regulations cannot plausibly be interpreted to refer to anything other than biological sex. The ordinary meaning of the term ‘sex’ at the time of enactment in the early 1970s was biological sex and not gender identity, particularly in the sports context.” *West Virginia v. B.P.J.*, No. 24-43, slip op. at 10 (U.S. June 30, 2026) (citing *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973) (plurality opinion) (“‘sex’ is ‘an immutable characteristic’”).

That’s with respect to Title IX. 20 U.S.C. §1681, *et seq.*

In the *B.P.J.* case, the Court was slightly less direct about what sex means under the Equal Protection Clause,

but it's apparent from context that the Court is not confused about what the word means. "The question before the Court is: Under Title IX and the Equal Protection Clause of the Fourteenth Amendment, may schools maintain women's and girls' sports for biological females? In other words, may schools determine eligibility for women's and girls' sports based on biological sex? The answer is yes." *Id.* at 3. "Under this Court's equal protection precedents, laws that classify by sex are subject to what is known as intermediate scrutiny: Sex-based classifications are permissible only when the classification is 'substantially related to achieving an important government objective.'" *Id.* at 15.

Or, we can look to the District Court for the Eastern District of Kentucky: "There are two sexes: male and female." *Tennessee et al. v. Cardona et al.*, No. 2024-cv-00072 (E.D. Ky. 2024) (preliminarily enjoining regulations unlawfully redefining "sex" to include "gender identity" under Title IX).

This case is not about Title IX or the Equal Protection Clause; it's about free speech and legislative immunity; however, *amicus* makes this point to clarify that the members of this Court know what sex is.

The meaning of the word "gender" is, as they say, in the eyes of the beholder. Some people use the word "gender" as a euphemistic synonym for sex.

For radical feminists like *amicus*, "gender" refers to sets of restrictive stereotypes that are imposed on people on the basis of sex. Men are expected to be dominating and rational. Boys are expected to play with trucks and

like the color blue. Women are expected to be demure and emotional, do the bulk of domestic labor, and dress in restrictive clothing. Girls are expected to play with dolls, like the color pink, and be pretty. Radical feminists seek to abolish these sets of stereotypes because they minimize the humanity of all while specifically functioning to keep women in a subordinate position to men, individually and collectively.

This Court rightly ruled in the matter of *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), that employment discrimination on the basis of nonconformity with sex stereotypes constitutes a form of unlawful sex discrimination. However, it used the word “gender” throughout the opinion, when what the Court really meant was “sex.” Ann Hopkins, the plaintiff in that case, was a woman who did not conform to the sex stereotypes of femininity. Notwithstanding the Court’s use of the word “gender” to mean “sex,” no one was confused about what was going on.

Some people use the word “gender” to mean a sense of self. They insist that there is something called “gender identity.” Sometimes they mean that some people are the opposite sex to what they actually are. Sometimes they mean that some people are members of neither sex or of a (nonexistent) third sex class. None of this is grounded in material reality. It’s just a belief system.

Some people change their names to names that are typically associated with the opposite sex. Some people claim to have “preferred pronouns” that refer to the opposite sex (or to no sex class at all).

Again, this is all just a belief system. Some people who call themselves “transgender” (or, if you prefer, “trans”) are sincerely confused about their actual sex. Many people who call themselves “transgender” are adult men with a paraphilia called autogynephilia—they are sexually aroused at the thought of themselves as women.⁵ Autogynephilia is, in other words, a fetish, and our society does not generally protect fetishes in the law.

The act of “misgendering” is said to mean something like “using a name or pronoun for someone that does match the person’s gender or gender identity.”⁶ However, if “gender identity” is nothing other than a belief system, then it should not be a problem to “misgender” someone. So-called “misgendering” simply refers to the act of referring to someone as the person’s actual sex, using sex-based pronouns.

Amicus and other radical feminists do not accept the concept of “misgendering” and do not refer to people using opposite-sex language. Radical feminists maintain that in order to advance the movement to liberate women, society has to be able to accurately identify who the women are and who the men are.

People such as the person after whom this Colorado law was named are permitted to believe that they are the

5. See, e.g., Ray Blanchard, “The concept of autogynephilia and the typology of male gender dysphoria,” *JOURNAL OF NERVOUS AND MENTAL DISEASE*, 177(10), 616-623 (October 1989).

6. See, e.g., Merriam-Webster, “Misgendering”: “to identify the gender of (a person, such as a nonbinary or transgender person) incorrectly (as by using an incorrect label or pronoun).”

opposite sex, but no one should be compelled (especially by government entities) to agree with them.

Some people think that so-called “misgendering” is mean.⁷ People are certainly entitled to that opinion, and *amicus* would never urge public officials to prohibit people from holding it. The same must also be true in the other direction—government officials should not prohibit people such as the petitioners from holding or expressing the view that the concept of “misgendering” is nonsensical.

In 2021, the Scottish government enacted a law called the Hate Crime and Public Order Act, the purpose of which was “to make provision about offences relating to stirring up hatred against a group of persons.” *See* Hate Crime and Public Order Act, 2021 (asp 14) (Scotland). It was set to take effect on April 1, 2024.

The law made it a criminal offense to “behave in a manner that a reasonable person would consider to be threatening, abusive, or insulting, or to communicate to another person material that a reasonable person would consider to be threatening, abusive, or insulting” with respect to certain characteristics. *Id.*

The characteristics are age, disability, religion or perceived religious affiliation, sexual orientation, transgender identity, and variations in sex characteristics. *See id.*

7. *See, e.g.*, KC Clements, “What Does It Mean to Misgender Someone?” HEALTHLINE (Sept. 18, 2018) (“Misgendering can have negative consequences for a transgender person’s self-confidence and overall mental health.”)

Because of the inclusion of “transgender identity” in the law, many were concerned that the Scottish government would use the law to arrest anyone who correctly identified a man as a man.

To test this, the author J.K. Rowling (who lives in Scotland) posted a thread on X/Twitter on the day the law took effect, in which she called various men (who call themselves “transgender women”) men.⁸ She then said, “I’m currently out of the country, but if what I’ve written here qualifies as an offense under the terms of the new act, I look forward to being arrested when I return to the birthplace of the Scottish Enlightenment.”⁹

After the police said publicly that they did not plan to arrest Rowling for the X/Twitter thread, she took the matter a step further and stated:

I hope every woman in Scotland who wishes to speak up for the reality and importance of biological sex will be reassured by this announcement and I trust that all women—irrespective of profile or financial means—will be treated equally under the law. If they go after any woman for simply calling a man a man, I’ll repeat that woman’s words and they can charge both of us at once.¹⁰

8. See Matt Lavietes, “J.K. Rowling will not be arrested for comments about transgender women, police say,” NBC NEWS (April 2, 2024).

9. *Id.*

10. See Melissa Koenig, “JK Rowling vows to defend women eyed by cops for misgendering trans people after daring police to arrest her,” NEW YORK POST (April 3, 2024).

The petitioners in this matter simply did what J.K. Rowling did—test the government’s ability to police speech by engaging in acts of so-called “misgendering.”

What the respondents in this case refer to as “misgendering” is nothing other than referring to men as men (or to women as women). If government entities can constitutionally prohibit individuals from merely stating the truth, we are in very dark times.

II. The concept of “gender identity” is very unpopular, especially once people come to understand that it denies the material reality of sex. This is why some state actors, including respondents, feel compelled to force people to use language that obscures reality, and with which they disagree.

Americans across the political spectrum know what a woman is and what a man is. In polling that *amicus* commissioned in 2023, four out of five voters agreed that the word “women” means “adult humans who are biologically female.”¹¹

And yet, many U.S. institutions have been captured by the idea that sex isn’t real or that if it is, it doesn’t matter. Specifically, elected Democrats.

As stated, *amicus* is a nonpartisan organization. However, it is no secret that elected Democrats are completely out of touch with ordinary citizens when it comes to this topic.

11. SurveyUSA, “Strong Majorities Prefer Female-Only Interactions for Women, Girls in Athletics, Restroom, Other Situations,” (Sept. 28, 2023).

In January 2025, when the U.S. House took up legislation to bar trans women’s participation on women’s sports teams, all but two Democratic representatives—Henry Cuellar and Vicente Gonzalez—voted against the bill.

When the Senate took up a similar proposal three days ago, every Democrat present voted against it.

Why don’t more Democrats explicitly moderate their stands on transgender rights, immigration and other issues? Those who maintain far-out positions are well to the left of the electorate and its emblematic median voter. The trans issue clearly weakened Kamala Harris’s presidential campaign, leaving her open to devastating pro-Trump ads.

In the case of one of the most disputed rights claimed by some parts of the transgender activist community—transgender women’s participation on women’s sports teams—Democrats have clear liberal grounds to challenge that claim, by asserting that they are protecting a woman’s right from unfair competition.¹²

12. Thomas B. Edsall, “Why Are So Many Democratic Politicians So Far Out of Touch?” *THE NEW YORK TIMES* (March 24, 2026); *see also* Kara Dansky, *THE RECKONING: HOW THE DEMOCRATS AND THE LEFT BETRAYED WOMEN AND GIRLS* (Bombardier Books, 2023).

Women on the political left are punished, often with violence, for speaking out about these things.¹³

Even worse, politically and culturally influential institutions have been pushing the idea that “gender identity” supersedes the reality of sex on the rest of us. *Amicus* opposes that across the board, but believes especially strongly that this capture has been necessary *precisely because* very few people would go along with it otherwise.

These institutions know that sex is real; they know that most other people know that sex is real; and they know that they have to use authoritarian measures to prevent people from discussing that reality. That category of institutions includes the respondents in this matter.

III. Women must have the right to freedom of opinion and expression, including the right to oppose gender (including “gender identity”).

As mentioned, the Declaration on Women’s Sex-Based Rights concerns the

re-affirmation of women’s sex-based rights, including women’s rights to physical and reproductive integrity, and the elimination of all forms of discrimination against women and girls that result from the replacement of the

13. *See, e.g.*, Mackenzie Tatananni, “Trans rights activists shout ‘F**k the TERFs’ as clash with radical feminist group hosting conference at San Francisco Hilton leads to physical assaults and spray-painted storefronts,” *THE DAILY MAIL* (Sept. 17, 2023).

category of sex with that of ‘gender identity’, and from ‘surrogate’ motherhood and related practices.¹⁴

This includes Article 4, reaffirming women’s rights to freedom of opinion and freedom of expression. These rights must include the right to hold and express opinions about “gender identity” without being subject to harassment, prosecution, or punishment.

Everyone, including petitioners in this case, should have the right to describe others on the basis of their sex rather than their “gender identity” in all contexts. People should be free to refer to themselves and others as the opposite sex, but no one should be compelled to do the same. Government entities should recognize that attempts by state agencies, public bodies, and private organizations to compel individuals to use terms related to “gender identity” rather than sex are *themselves* a form of discrimination against women, including against petitioner Christina Goeke.

This is the United States of America, where people are permitted to have a wide variety of views about all topics. People are entitled to believe that sex isn’t real or that if it’s real, it’s less important than people’s “gender identities.” Similarly, women (and men) must be free to think and say out loud that sex is real, including by using accurate-sex pronouns.

No topic should ever be off limits.

14. Declaration, Article I.

CONCLUSION

For all of these reasons, *amicus* encourages this Court to grant the petition for *certiorari*.

Respectfully submitted,

KARA DANSKY
Counsel of Record
P.O. Box 21160
Washington, DC 20009
(833) 670-2474
president@womensdeclarationusa.com

Counsel for Amicus Curiae

August 5, 2026