

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

KAREN KREBS,	)	
	)	
Plaintiff,	)	Case No. 2:19-cv-634
	)	
v.	)	
	)	Judge Stadtmueller
MICHAEL GRAVELEY,	)	
	)	
Defendant.	)	

**PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT  
AND A PERMANENT INJUNCTION**

Pursuant to Fed. R. Civ. Pro. 56 and 65, Plaintiff Karen Krebs, through counsel, respectfully requests that this Honorable Court grant her summary judgment on her claim that Wis. Stats. §301.47 (the “Name-Change Statute”) violates the First Amendment as applied and grant her permanent injunctive relief prohibiting Defendant Graveley from enforcing the law against her. In support, Plaintiff states as follows:

1. Plaintiff Karen Krebs is a transgender woman. She was given the name “Kenneth Krebs” at birth. She challenges the constitutionality of Wis. Stats. §301.47, a section of Wisconsin law pursuant to which she is permanently prohibited from legally changing her name to “Karen.”

2. As set forth in full in the Memorandum of Law submitted herewith, the Name-Change Statute violates the First Amendment as applied to Plaintiff because it fails to strike a proper balance between Plaintiff’s speech rights and legitimate

government objectives. This is so in four ways.

- First, the statute violates the First Amendment because it compels Plaintiff to engage in speech and does not satisfy strict scrutiny.
- Second, if analyzed as a restriction on speech in a limited public forum, the statute fails because the restrictions it imposes are not reasonable in light of the purpose for which the government has established the forum.
- Third, if analyzed as a regulation of expressive conduct under *U.S. v. O'Brien*, 391 U.S. 367 (1968), the statute fails because it imposes a restriction on expression greater than is essential to further an important or substantial governmental interest.
- Fourth, if the statute is not subjected to any form of heightened scrutiny, it fails because it is not appropriately tailored to any government interest—in fact, it undermines rather than promotes the government purposes that have been put forth to justify it.

3. If the Court finds in Plaintiff's favor on her First Amendment claim, the Court should enter a permanent injunction prohibiting Defendant from enforcing the name-change statute against her. A permanent injunction is appropriate where the party seeking the injunction establishes the following four factors:

- success on the merits of her claim;
- that she will suffer irreparable harm in the absence of an injunction;
- the balance of hardships weighs in her favor; and
- the granting of the injunction will not disserve the public's interests.

*Klinger v. Conan Doyle Estate, Ltd.*, 988 F. Supp. 2d 879, 894 (N.D. Ill. 2013) (citing *Plummer v. Am. Inst. of Certified Pub. Accountants*, 97 F.3d 220, 229 (7th Cir. 1996)).

4. Here, Plaintiff meets all four factors. She has established an entitlement to judgment as a matter of law in her favor on her First Amendment claim; she is suffering an ongoing deprivation of First Amendment liberties for which she lacks a

remedy at law; and the balance of hardships tips in her favor because the state's own top registration authority testified that public safety would not be compromised and nothing would change about the information that appears on the Sex Offender Registry if Plaintiff is permitted to legally change her name.

WHEREFORE, for the reasons set forth in full in Plaintiff's memorandum of law, Plaintiff respectfully requests that the Court grant her motion for summary judgment and a permanent injunction.

Respectfully submitted,

/s/ Adele D. Nicholas  
/s/ Mark G. Weinberg  
*Counsel for Plaintiff*

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