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**Transgender Rights and the Missouri Human Rights Act: An Overview  
of R.M.A. v. Blue Springs R-IV School District**

**By Michael Scott\***

On February 29, 2019, the Missouri Supreme Court issued a landmark decision concerning transgender rights in *R.M.A. v. Blue Springs R-IV School District*.<sup>1</sup> The Court held that a transgender student pled sufficient facts to survive a motion to dismiss when he alleged his school district discriminated against him on the grounds of his sex.<sup>2</sup> The petitioner, R.M.A., alleged that the school had denied him access to public accommodations—the boys’ restrooms and locker rooms—in violation of Section 231.065 of the Missouri Human Rights Act (“MHRA”).<sup>3</sup> R.M.A. is the first case in which the Missouri Supreme Court has recognized that transgender individuals are protected by the MHRA.

At the time of the initial lawsuit, R.M.A. attended high school in the Blue Springs R-IV School District (“Blue Springs”).<sup>4</sup> Blue Springs, located near Kansas City, Missouri, serves a student population of nearly 15,000.<sup>5</sup> R.M.A. began his transition in 2009; a year later, he legally changed his name to reflect his gender identity.<sup>6</sup> In 2014, R.M.A. changed his gender marker from female to male on his birth certificate.<sup>7</sup> Throughout this process, R.M.A. and his parents notified Blue Springs of his transition, name change, and gender change in hopes that the district would accommodate him.<sup>8</sup> Blue Springs allowed R.M.A. to participate in boys’ physical education

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<sup>1</sup> *R.M.A. v. Blue Springs R-VI Sch. Dist.*, Mo. No. SC96683, 2019 Mo. LEXIS 54 (Mo. Feb. 26, 2019).

<sup>2</sup> *Id.* at \*3, \*5, \*11.

<sup>3</sup> *Id.* at \*2–3.

<sup>4</sup> *R.M.A. v. Blue Springs R-VI Sch. Dist.*, WD 80005, 2017 WL 3026757, at \*2 (Mo. Ct. App. W.D., July 18, 2017).

<sup>5</sup> *About the District*, The Blue Springs School District, <https://www.bssd.net/cms/lib/MO01910299/Centricity/Domain/3368/HRbrochureWEB.pdf> (last visited Feb. 17, 2019).

<sup>6</sup> *R.M.A.*, 2017 WL 3026757 at \*2.

<sup>7</sup> Substitute Brief of Respondents/Defendants at 7, *R.M.A. ex rel. Rachele Appleberry v. Blue Springs R-IV Sch. Dist.* (Mo. No. SC96683).

<sup>8</sup> *R.M.A.*, 2017 WL 3026757 at \*3.

classes and boys' sports programs in accordance with his gender identity.<sup>9</sup> However, the district forced R.M.A. to dress for sports activities in a separate, unisex bathroom outside of the boys' locker room<sup>10</sup> and, during the 2013–14 school year, the district did not allow R.M.A. to use the boys' locker rooms nor the boys' restrooms at his high school.<sup>11</sup>

In assessing R.M.A.'s claim of discrimination, the Court analyzed MHRA section 213.065.2, which states:

It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person . . . advantages, facilities, services, or privileges made available in any place of public accommodation . . . or to segregate or discriminate against any such person in the use thereof on the grounds of . . . sex.<sup>12</sup>

In effect, R.M.A. had to allege facts in his claim supporting four elements to survive the defendants' motion to dismiss: (1) that the defendants denied him "full and equal use and enjoyment" of a public accommodation; (2) that he is part of a protected class; (3) that his sex was a contributing or motivating factor in the denial of his use of a public accommodation; and (4) that he suffered damages.<sup>13</sup>

The Court held that R.M.A. had alleged facts sufficient for each element of his claim.<sup>14</sup> First, the Court stated that the school's locker rooms and restrooms were public accommodations and R.M.A. had been denied access to them.<sup>15</sup> Second, R.M.A. alleged that he was male, as shown on his amended birth certificate, and thus is a member of a protected class.<sup>16</sup> Sex is a protected class under Section 213.065 of the MHRA, and his amended

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<sup>9</sup> *Id.* at \*2.

<sup>10</sup> Substitute Brief of Respondents/Defendants, *supra* note 6, at 7–8. The school district admits that "[o]ther boys attending school within the . . . School District ha[d] regular, unrestricted access to the boys' locker rooms and restrooms in schools operated" by the district. *Id.* at 7.

<sup>11</sup> *R.M.A.*, 2017 WL 3026757 at \*2.

<sup>12</sup> *R.M.A.*, 2019 Mo. LEXIS 54 at \*5.

<sup>13</sup> *Id.* at \*7–10.

<sup>14</sup> *Id.* at \*11.

<sup>15</sup> *Id.* at \*8.

<sup>16</sup> *Id.* at \*8–9.

birth certificate sufficiently established R.M.A.'s legal sex as male for the pleading stage.<sup>17</sup> Third, the pleadings stated that R.M.A. was discriminated against because of his sex since he received "different and inferior access to public facilities" and that his sex was a contributing factor in the school district's behavior.<sup>18</sup> Lastly, R.M.A. alleged that he had suffered damages because of the defendants' discrimination.<sup>19</sup>

The lynchpin of the Court's decision was a recognition that the MHRA does not prohibit discrimination only on the basis of biological sex, which was a statutory interpretation advanced by the dissenting justices.<sup>20</sup> The majority argued that the dissenting justices, by restricting the scope of the MHRA to biological sex, were reading a requirement into the MHRA that is not part of the text of the statute.<sup>21</sup> The Court recognized that a person's sex may change throughout his or her life and it may be different from the person's sex at his or her birth.<sup>22</sup> Interestingly, in so ruling, the majority did not rely on a "sexual stereotyping" theory articulated in Title VII cases that has been used to protect transgender individuals.<sup>23</sup> The Court recognized that, as shown on his amended birth certificate, R.M.A.'s legal sex was male and his

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<sup>17</sup> *Id.* at \*5, \*8–9.

<sup>18</sup> *R.M.A.*, 2019 Mo. LEXIS 54 at \*9.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at \*9 n.8.

<sup>21</sup> *Id.* at \*9 n.7. In their argument, the dissenting justices relied upon *Pittman v. Cook Paper Recycling Corp.*, 478 S.W.3d 479 (Mo. Ct. App. 2015), which stated that the "clear meaning" of "discrimination because of . . . sex" in the MHRA refers only to discrimination against one as a male or female. *Id.* at \*18. Therefore, the dissenters asserted that the MHRA, read in the light of the appellate court's decision in *Pittman*, does not protect transgender individuals. *Id.* at \*17–18. In addition to disagreeing with the dissenters' interpretation of the MHRA, the majority opinion distinguished *Pittman* and the federal Title VII cases cited by the dissent by stating these cases illustrated only that one cannot state a claim of discrimination based on sexual orientation or transgender status. *Id.* at \*9 n.9. Here, R.M.A. alleged he was discriminated against because of his sex. *Id.*

<sup>22</sup> *Id.* at \*9 n.7.

<sup>23</sup> *Id.* at \*6 n.4. For example, the Sixth Circuit in *Smith v. City of Salem* held that Title VII provides protections for transgender people because it prohibits discrimination based on gender stereotypes. 378 F.3d 566, 574–75 (6th Cir. 2004). Here, the majority stated that while the MHRA does not provide for types of sexual discrimination claims, sex stereotyping can be used as evidence of sex discrimination. *R.M.A.*, 2019 Mo. LEXIS 54 at \*6 n.4. The majority stated that while the MHRA does not provide for types of sexual discrimination claims, sex stereotyping can be used as evidence of sex discrimination. *Id.*

discrimination claim would be measured against the public accommodations provided to other males in his school district.<sup>24</sup>

This case represents a fundamental leap forward for Missouri's transgender citizens since they can now successfully state claims of discrimination under the MHRA. LGBT activists have been working, unsuccessfully, to incorporate protections from discrimination against sexual orientation and gender identity legislatively into the MHRA since 1998.<sup>25</sup> Even though there is much work left to be done to protect transgender individuals from discrimination, their future is looking brighter in Missouri.

Edited by Carter Gage

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<sup>24</sup> *R.M.A.*, 2019 Mo. LEXIS 54 at \*6, \*9 n.7.

<sup>25</sup> Ellen Herrion, Note, *What's Missing? Addressing the Inadequate LGBT Protections in the Missouri Human Rights Act*, 81 Mo. L. Rev. 1173, 1178 (2016).