

Female Athletes Pursue Lawsuit, Seek to Defend Gender Equality Rights

The American Civil Liberties Union is challenging Idaho's Fairness in Women's Sports Act. This commonsense law simply reserves women's sports for female athletes. But the ACLU's lawsuit seeks to force female athletes to compete against male athletes who identify as female.

In response, Idaho State University athletes Madison Kenyon and Mary Kate Marshall intervened to defend the Fairness in Women's Sports Act.

Unfortunately, in August, a federal district court halted enforcement of the law while the lawsuit moves forward. ADF is representing Madison and Mary Kate, and we have appealed this ruling to the U.S. Court of Appeals for the 9th Circuit.

Sandra Bucha, a lawyer and 2014 inductee into the International Swimming Hall of Fame, signed onto an amicus brief in support of these two collegiate athletes and answered a few questions in regard to the case:

Why does this case matter to you? Why is it important?

"I was a swimmer for about 10 years—from age 7 all the way through high school. In 1968, I entered high school, along with a number of other young girls who were competitive swimmers. At that time, there were no girls' high school swim teams in Illinois. So, my swim coach said that if any of us girls made the women's Amateur Athletic Union national qualifying times, he would let us train with the high school boys' swim team. Ultimately, I was the only girl that made the cutoff times, which meant that I was the only girl throughout high school allowed to train with the boys' high school swim

team.

“My father saw all of this play out. And he knew it wasn’t fair. In 1972, my father contacted the ACLU and asked it to represent me and other similarly situated girls in a lawsuit against the Illinois High School Association. In that lawsuit, we argued that if there wasn’t a comparable girls’ high school swim team, we should be allowed to compete for a spot on the boys’ team.

“We ended up losing the lawsuit for one reason: The district judge ruled that there are good reasons for keeping boys and girls separate in athletics—namely, the inherent biological differences between boys and girls. And it really wouldn’t be fair to those girls to have to compete against boys. Even though we lost the lawsuit, Title IX was passed that very same year, which protects equal educational and athletic opportunities for women. And it was under Title IX that separate women’s sports teams started to be more widely established.

“Fast forward 50 years. Today, young women are again fighting for equal athletic opportunities. These young women in Idaho, Madison Kenyon and Mary Kate Marshall, have been training and competing for league victories, opportunities to advance to elite competitions and public recognition. If a boy is allowed to compete on the girls’ teams, female athletes will not have the privilege, the fulfillment or the satisfaction of accomplishing a personal goal, due to the inherent physical advantages that a boy would have over her. That is why I feel so strongly about this, because I think those young girls’ dreams will be shattered.”

What biological realities keep women from being able to compete on the same level as men?

“Men have greater lung capacity, muscle mass, bone structure and even arm length. They are generally stronger and faster.

And those inherent biological differences cannot be changed by testosterone suppression.”

What privileges granted to girls since the passage of Title IX do you believe are at stake in this case?

“First and foremost, the fulfillment of their personal dreams and goals and the life lessons that come with fair competition and striving for victory. Second, access to college scholarships, which have been made available through the passage of Title IX. Third, future employment in the arena of sports, because so much of what we do in our later lives depends on what we achieve in our younger lives.”

You signed on to an amicus brief in this case, so what was it in the brief specifically that you endorsed?

“I endorsed the fact that there are real, biological differences between men and women, which is why men and women should have separate but equal teams. When male athletes are allowed to compete on female teams, we are discriminating against girls and women.”

Do you believe the future of women’s sports is at stake in this case?

“It’s not an exaggeration to say that the future of women’s sports will be greatly affected. It’s also not an exaggeration to state unequivocally that, if the ACLU wins, the athletic dreams of many female athletes will be shattered.”

Add your name to this petition calling for the athletic and academic futures of young women across the country to be protected. {eo}

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