

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

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BETHANY R. SCAER and STEPHEN :  
SCAER, :

Plaintiffs, :

v. :

CITY OF NASHUA; JAMES W. :  
DONCHESS, Mayor, City of Nashua, in :  
his official and individual capacities; :  
JENNIFER L. DESHAIES, Risk :  
Manager, City of Nashua, in her official :  
and individual capacities, :

Defendants. :

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Case No.

DECLARATION OF STEPHEN SCAER

I, Stephen Scaer, declare the following based on my personal knowledge:

1. I have lived in Nashua, New Hampshire for three decades. My wife, Bethany Scaer, and I raised two daughters in Nashua.

2. I am active in both state politics and local Nashua politics. Currently, I am a Republican candidate for state senate, and I also ran for state senate in 2022. My political platform focuses on defending First Amendment rights, protecting children from experimental gender medicine, and ensuring women can have restrooms, locker rooms, sports teams, and prisons reserved exclusively for those of their biological sex.

3. I also write for *GraniteGrok*: a New England political website advocating limited government and the defense of liberty. I also participate in political rallies, speak at government meetings, put up billboards, and stand on public sidewalks with signs, in order to raise awareness about issues such as gender detransitioners and the dangers of pediatric gender medicine. My moniker is “Sidewalk Steve” for my activism.

4. In my activism, I have worked alongside various gender-critical groups, on the political right and left, such as Gays Against Groomers and the Women’s Liberation Front.

5. I am aware that the City of Nashua, New Hampshire has a Citizen Flag Pole in front of its city hall, reserved for people to use to fly a flag in support of cultural heritage, observe an anniversary, honor an accomplishment, or support a worthy cause.

6. Nashua established its flag program in 2017. Since then, I have often seen the flags in front of city hall and have attended about a half-dozen flag-raising ceremonies. Although I myself have only applied to use the Citizen Flag Pole once, my wife and various friends have applied many times. Through this, I am familiar with the flag application process.

7. I am aware that short ceremonies at the City Hall Plaza often—but do not always—accompany flag raisings. Local politicians sometimes attend or even speak at flag-raising ceremonies.

8. Politicians can use these ceremonies as an opportunity to interact with the local group of constituents raising the flag and win favor with voters. When a local ethnic community raises a flag (such as the Indian Flag, Irish Flag, or Armenian Flag), Mayor Donchess usually attends to show his support for the community and strengthen his political network. As a local politician myself, I recognize the value of such outreach to prominent community groups.

9. I am aware that some groups apply to Nashua every year to fly a flag in celebration of an anniversary. Examples include flags in honor of Pride Month, Indian Independence Day, Brazilian Independence Day, Greek Independence Day, International Francophonie Day, and the anniversary of the foundation of Nashua's Lions Club.

10. My first experience using the Citizen Flag Pole was in October 2017, when I helped my wife raise the Luther Rose Flag in honor of the 500th anniversary of the Protestant Reformation. My wife had applied to the city and supplied the flag (which we own). Approximately six people attended the flag-raising ceremony—none of whom represented the city.

11. In April 2021, my wife again received permission to fly our Lutheran flag for the 500th anniversary of the Diet of Worms: a crucial event in the history of the Protestant Reformation, at which Martin Luther refused to recant his theological views, despite the threats of Emperor Charles V. I consider the Diet of Worms to mark the beginning of religious freedom, without which the founding of American would be unimaginable. I posted on social media about the Diet's importance,

encouraging people to attend the flag-raising ceremony. Less than a dozen people attended—none of whom represented the city.

12. In 2020, my wife received permission from the city to raise a Save Women's Sports Flag on the Citizen Flag Pole. On October 10, my wife and I raised the flag together, using a tool borrowed from the city, without a ceremony but with two other people in attendance, holding signs.

13. A day later, on October 11, the city revoked its permission and took the flag down, after various people complained that the flag was supposedly "transphobic." My wife appealed this removal, unsuccessfully.

14. In August 2021, my wife was allowed to fly a flag in honor of the ratification of the Nineteenth Amendment. No representatives of the city attended the flag raising. Indeed, my wife and I were the only people present. After we raised the flag, my wife spoke about the importance of women's sex-based rights and how Mayor Donchess' gender-identity policies undermined these rights.

15. I was part of a group that flew the Christian Flag during Holy Week 2024. There was a small ceremony of less than a dozen people at which Hal Shurtleff—the plaintiff in *Shurtleff v. City of Boston*, 596 U.S. 243 (2022)—and a local pastor both spoke about the need to reclaim America for Jesus Christ and criticized Nashua for flying flags that support progressive politics such as the Pride Flag while rejecting flags with conservative messages such as the Pro-Life Flag. No representatives of the city were present.

16. On February 7, 2024, I applied to raise the Detransitioner Awareness Flag. I sought to fly the flag for a week, to commemorate Detrans Awareness Day on March 12. I planned to organize a small flag-raising ceremony with only five people in attendance—none of whom would represent the city.

17. The Detransitioner Awareness Flag was designed for this flag raising by a gender detransitioner, Laura Becker. The flag depicts a blue-green lizard against a black background, with the words “De-Trans Awareness” at the bottom. This iconography was chosen because some lizards are able to lose parts of their body and survive to grow them back.

18. Raising awareness about gender detransitioners and the difficulties they overcome is important to me both politically and personally. Detransitioners are among the bravest people that I know, and they frequently endure threats, ridicule, discrimination, and medical problems. I have helped one detransitioner obtain medical care (which can be painful and prohibitively expensive because there are no insurance codes for these treatments). Supporting detransitioners does not hurt transgender-identifying persons and is something that Nashua, as a “Welcoming City,” ought to embrace.

19. On February 14, 2024, I received an email from Defendant Deshaies, denying my flag application because the Detransitioner Awareness Flag supposedly “is not in harmony with the message that the City wishes to express and endorse.” I appealed this decision on February 22. On March 4, Mayor Donchess upheld Deshaies’ decision.

20. Exhibit J is a true and correct copy of my Detransitioner Awareness Flag application and my correspondence with Defendants concerning this application.

21. Exhibit K is a collection of photographs that fairly and accurately depicts the Pine Tree Flag, the Save Women's Sports Flag, and the Detransitioner Awareness Flag, that my wife or I applied to fly.

22. I intend to apply to fly additional flags on the Citizen Flag Pole, in order to express my views, if Nashua would permit this.

23. If permitted, I would fly the Detransitioner Awareness Flag next year during the week around March 12, 2025: Detrans Awareness Day. The Detransitioner Awareness Flag celebrates the bravery of men and women whose very existence is often denied. By flying the flag, Nashua would be pushing against the threats, ridicule, and discrimination often aimed at gender detransitioners. Moreover, increased awareness might make it easier for detransitioners to obtain the expensive medical care that they usually desire. I embrace and would like to express the political message of this flag. I believe, however, that applying to fly the Detransitioner Awareness Flag again would be futile, because Defendants would deny my application, just as they did this year.

24. I would also like to fly flags expressing my views on issues such as women's sex-based rights, pediatric gender medicine, abortion, and the freedoms protected in the Bill of Rights. Based on Nashua's previous flag denials, I reasonably believe that Defendants disagree with my views on these issues and would not allow me to fly flags of my own choosing about these issues.

25. If permitted, my wife and I would fly the Save Women's Sports Flag for the anniversary of Title IX next year. This flag expresses my viewpoint that women have inalienable rights based on their biological sex that governments have a duty to protect and that allowing biological males to compete against women in sports denies women their rights and the equality due them under both the U.S. Constitution and Title IX. As a father of two daughters who attended New Hampshire schools and competed in student athletics, ensuring that biological women can compete in safe and fair sports is important to me. I believe, however, that applying to fly the Save Women's Sports Flag again would be futile, because Defendants would deny my application, just as they did twice before.

26. Nashua has permitted me to fly some of the flags that I applied to display. However, if not for Defendants' policies, I would fly flags more often in the future and would be able to display a wider range of views through flags. Nashua's flag policy limits the viewpoints that I can express, the choice of flags and iconographies that I can display, and the frequency of my political expression.

27. I find it frustrating and degrading to have my flag request denied by the city, especially when I see other residents being allowed to promote their flags and viewpoints. In seeing the flags that Nashua permits in front of city hall, I have noticed that flags expressing majoritarian opinions—and especially the opinions of Nashua's political leaders—can fly while flags that express dissenting viewpoints, on both the right and the left, are rejected. It is also frustrating and degrading that city officials refuse to explain to me why my Detransitioner Awareness Flag


application was really denied. This amounts to disrespect towards gender detransitioners (and towards me) and suggests that Nashua—a supposedly “Welcoming City”—denies that detransitioners even exist.

28. I also think it is wrong for the city to revoke previously granted permission just because someone complains about a flag they disagree with. This amounts to city officials picking and choosing which citizens’ views matter more. It is offensive to me to be told, in effect, that my views do not matter because I advocate for gender-critical policies and the rights of detransitioners.

29. Unless I am able to obtain protection from the Court, I expect to make fewer or different flag applications to the city in the future, in order to avoid having my flag applications denied or revoked.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 4, 2024



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Stephen Scaer