

# Father's behaviour toward transgender child an act of violence, B.C. court told

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The B.C. Supreme Court in Vancouver.

VANCOUVER — A father who opposes his transgender child's pursuit of testosterone therapy showed behaviour that went beyond mere expressions of disapproval but was coercive and intimidating — and thus was a clear act of family violence, B.C.'s top court was told Thursday.

Because of that harmful behaviour, a lower court was correct to place restrictions on the father's ability to talk about the case, argued the child's lawyer, Barbara Findlay.

"For a transgender person, having the world refuse to accept the gender identity that you say you are is the most profound harm because it's a denial of your human identity," Findlay said.

"(The) dad's expression rights end at the point where they harm (the child)."

The arguments were made at the resumption of a three-day B.C. Appeal Court hearing into a complex family dispute that deals with themes of child autonomy, parental rights and freedom of expression.

At the heart of the case is a 14-year-old transgender boy who has identified as male since age 11. He was referred last year by a psychologist to B.C. Children's Hospital to treat his gender dysphoria. The hospital's gender clinic found it was in the child's best interests to proceed with hormone therapy to help him transition from a female body to a male one and obtained consent from the child and his mother.

The father went to court to try to block the treatment, but in February, B.C. Supreme Court Justice Gregory Bowden ruled that the child was "exclusively entitled" to consent to treatment. Bowden went on to declare that the child must also be referred to using male pronouns and that any attempt to persuade the child to abandon treatment or references to the child using female pronouns "shall be considered to be family violence."

In April, B.C. Supreme Court Justice Francesca Marzari went further and issued a protection order restraining the father from publicly discussing the case after finding that interviews he'd given to conservative media outlets had potentially exposed the child to violence and harassment.

The father filed an appeal on the grounds that the lower court had delivered a "rush to judgment" without considering all scientific opinion on such treatments, that a person his child's age is incapable of appreciating the potential consequences of a "still experimental treatment," and that an order preventing him from publicly talking about his child's gender identity infringed on his freedom of expression.

On Thursday, Findlay read to the court excerpts from the child's affidavit in which he described the struggles he's endured.

"It's really hard to explain to anybody who's not transgender how terrible it feels to have a body that doesn't match your gender. ... Sometimes I feel like I want to rip my skin off."

Since he started taking hormone treatments earlier this year, he still battles depression but feels much more comfortable in his body, the court heard.

"When I look in the mirror I see myself. ... It is so amazing to feel normal."

The father refuses to acknowledge his child by his chosen name or acknowledge his gender identity, findlay said. In fact, the father has suggested his child is delusional and the victim of sex activists' agendas and brainwashing, she said.

When the gender clinic held off proceeding with treatment in the hopes of getting the father onboard, the father — despite several attempts from the clinic — "systematically" refused to engage in a dialogue, court heard.

"His dad doesn't think that transgender is a thing, that it's essentially not human," findlay said.

When appeal court panel member Justice Barbara Fisher questioned whether the father's actions met the definition of family violence, findlay replied that the father's insistence that his child be somebody that he is not was a clear attempt at coercion and intimidation.

At one point, another panel member, Justice Harvey Groberman, wondered if the courts had any business making decisions about medical treatments when the responsibility for assessing a patient's best interests falls squarely with health professionals.

But findlay said it was appropriate in this instance for the child to say to the courts: "I need help here."

Jessica Lithwick, the lawyer representing the mother, who supports the child's gender transition, said the mother has held her child's hand through this whole process, unlike the father, who has carried out the litigation "in partnership" with a conservative activist group, Culture Guard, which the child is deeply troubled with.

But Groberman wondered if the restrictions on the father's speech were overly broad, noting that there have been hate-speech decisions that don't necessarily prohibit a person from expressing their beliefs.

"Just because you say (the father) is acting in a particularly evil manner would not seem to justify restrictions that go beyond what's necessary," he said.

Lithwick said the restrictions were necessary.

"We're in this complicated situation where it can't be done — in the face of (the father's) past conduct — in a more narrow way," she said.

The father, Lithwick said, has repeatedly shown a "shocking lack of discretion and consideration towards (the child)."

Lithwick cited an excerpt from the child's affidavit in which he said: "I don't really want to see my father right now because he only wants to harass me about being trans."

"(The child) is distressed because of the mismatch between his body and who he really is," Lithwick said. "And a part of that is how the world receives him, and his dad is a big part of that world."