

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 22-0586

FILED

FEB 21 2023

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

STEVE BARRETT, ET AL.,

*Plaintiffs-Appellees/Cross-Appellants*

v.

STATE OF MONTANA, ET AL.,

*Defendants-Appellants/Cross-Appellees.*

On Appeal from the Eighteenth Judicial District Court  
Gallatin County, Cause No. DV-21-581-B  
The Hon. Rienne H. McElyea, Presiding

**UNOPPOSED MOTION FOR PRO HAC VICE ADMISSION OF  
CODY S. BARNETT AS COUNSEL FOR *AMICI CURIAE***

**APPEARANCES:**

Justin M. Oliveira  
P.O. Box 80266  
Billings, MT 59108  
(406) 201-6087  
joliveira@joliveiralaw.com

Cody S. Barnett\*  
ALLIANCE DEFENDING FREEDOM  
44180 Riverside Pkwy  
Lansdowne, VA 20176  
(571) 707-4655  
cbarnett@ADFlegal.org

*Counsel for Proposed Amici Curiae*  
\* *Pro hac vice* application submitted

Selina Soule, Chelsea Mitchell, Madison Kenyon, Macy Petty, and Cynthia Monteleone (“Proposed Amici Curiae”), by and through counsel, hereby respectfully move this Court to enter an order admitting Cody S. Barnett of Alliance Defending Freedom *pro hac vice* in this matter to join Justin Oliveira as counsel in submitting a brief of *amici curiae* in support of Defendants-Appellants/Cross-Appellees. Counsel for Defendants-Appellants/Cross-Appellees and counsel for Plaintiffs-Appellees/Cross-Appellants have been contacted regarding this motion and are not opposed to it. An Affidavit of Cody S. Barnett in support of this motion is attached.

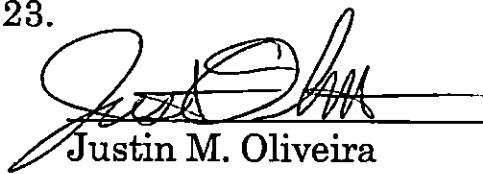
This case involves the Montana Legislature’s attempts to promote sex equality by protecting women’s participation in athletics. Alliance Defending Freedom has extensive experience with this issue, and it has represented female athletes in a variety of cases across the country. For example, Alliance Defending Freedom currently represents Madison Kenyon, one of the above-referenced five female athletes, as an Intervenor-Defendant in *Hecox v. Little*, which is a case defending Idaho’s ability to enact similar legislation. Mr. Barnett’s experience, and that of Alliance Defending Freedom, in litigating this issue and related constitutional questions will significantly assist the State in defending Montana’s laws to protect women’s civil rights.

Mr. Barnett resides in Virginia, is not regularly employed in the State of Montana, is an active member in good standing of the Bars of

Kentucky and District of Columbia, and is of good moral character. The undersigned will serve as local counsel, has familiarity with local practices, will be readily available for communication regarding the conduct of this case and to actively participate in this matter as required by the Montana rules for admission.

Wherefore, Proposed Amici Curiae respectfully request that this Court GRANT this motion for the *pro hac vice* admission of Cody S. Barnett in this matter to join Justin Oliveira as counsel submitting a brief of *amici curiae*. A proposed order is attached.

Dated: February 16, 2023.

  
Justin M. Oliveira  
P.O. Box 80266  
Billings, MT 59108  
(406) 201-6087  
joliveira@joliveiralaw.com

*Counsel for Proposed Amici Curiae*

## CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2023, I submitted the foregoing motion to the Clerk of the Court for the Montana Supreme Court and have served true and accurate copies on the following parties:

Austin Knudsen  
*Montana Attorney General*  
Kathleen L. Smithgall  
*Deputy Solicitor General*  
Montana Department of Justice  
P.O. Box 201401  
Helena, MT 59620-1401

James H. Goetz  
Jeffrey J. Tierney  
Goetz, Baldwin & Geddes, P.C.  
35 North Grand  
P.O. Box 6580  
Bozeman, MT 59771-6580

Emily Jones  
*Special Assistant Attorney General*  
Jones Law Firm, PLLC  
115 N. Broadway, Suite 410  
Billings, MT 59101

Raphael Graybill  
Graybill Law Firm, PC  
300 4<sup>th</sup> Street North  
P.O. Box 3586  
Great Falls, MT 59403

*Attorneys for Defendants-  
Appellants/Cross-Appellees*

*Attorneys for Plaintiffs-  
Appellees/Cross-Appellants*

  
Justin M. Oliveira

*Counsel for Proposed Amici Curiae*

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 22-0586

---

STEVE BARRETT, ET AL.,

*Plaintiffs-Appellees / Cross-Appellants,*

v.

STATE OF MONTANA, ET AL.,

*Defendants-Appellants / Cross-Appellees.*

---

On Appeal from the Eighteenth Judicial District Court  
Gallatin County, Cause No. DV-21-581-B  
The Hon. Rienne H. McElyea, Presiding

---

**AFFIDAVIT OF CODY S. BARNETT RE: MOTION FOR  
ADMISSION *PRO HAC VICE***

---

I, Cody S. Barnett, of Alliance Defending Freedom, state under penalty of perjury that:

1. I reside in the State of Virginia and work in the Virginia office of Alliance Defending Freedom located at 44180 Riverside Pkwy, Lansdowne, Virginia 20176, telephone (571) 707-4655, and my email address is cbarnett@adflegal.org.

2. I have paid the *pro hac vice* admission fee simultaneously with the filing of my application for admission to the State Bar of Montana.

3. I am admitted to practice in the following courts and my dates of admission are:

Kentucky Supreme Court	10/23/2017
District of Columbia Court of Appeals	06/09/2020
U.S. Court of Appeals for the Second Circuit	06/02/2021
U.S. Court of Appeals for the Sixth Circuit	06/13/2018
U.S. Court of Appeals for the Seventh Circuit	09/02/2022
U.S. Court of Appeals for the Ninth Circuit	05/21/2021
U.S. Court of Appeals for the Tenth Circuit	01/27/2023
U.S. Supreme Court	01/09/2023

4. I am in good standing and eligible to practice in these courts, have never been held in contempt, otherwise disciplined by a court for disobedience to its rules or orders, or sanctioned under Federal Rule of Civil Procedure 11 or 37(b)(c),(d), or (f) or their state equivalents.

5. I am not currently suspended or disbarred in any other court.

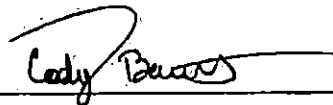
6. I have not made concurrently or within the two years preceding this motion for admission *pro hac vice* any other *pro hac vice* applications to this Court.

7. I understand that *pro hac vice* admission in this Court is personal to me, is not the admission of Alliance Defending Freedom, and that I will be held fully accountable for the conduct of the litigation in this Court.

8. I have complied with Montana Rule of Professional Conduct 8.5.

Dated this 16th day of February, 2023.

Respectfully submitted,

By:  \_\_\_\_\_

Cody S. Barnett  
ALLIANCE DEFENDING FREEDOM  
44180 Riverside Pkwy  
Lansdowne, VA 20176  
(571) 707-4655  
cbarnett@ADFlegal.org