



DAVIS, Senior Circuit Judge, concurring:

I concur in the order granting the unopposed motion to vacate the district court's preliminary injunction and add these observations.

G.G., then a fifteen-year-old transgender boy, addressed the Gloucester County School Board on November 11, 2014, to explain why he was not a danger to other students. He explained that he had used the boys' bathroom in public places throughout Gloucester County and had never had a confrontation. He explained that he is a person worthy of

Our country has a long and ignominious history of discriminating against our most vulnerable and powerless. We have an equally long history, however, of brave individuals—Dred Scott, Fred Korematsu, Linda Brown, Mildred and Richard Loving, Edie Windsor, and Jim Obergefell, to name just a few—who refused to accept quietly the injustices that were perpetuated against them. It is unsurprising, of course, that the burden of confronting and remedying injustice falls on the shoulders of the oppressed. These individuals looked to the federal courts to vindicate their claims to human dignity, but as the names listed above make clear, the judiciary’s response has been decidedly mixed. Today, G.G. adds his name to the list of plaintiffs whose struggle for justice has been delayed and rebuffed; as Dr. King reminded us, however, “the arc of the moral universe is

Commonwealth of Virginia has now recorded a birth certificate for G.G. that designates his sex as male.

G.G.'s lawsuit also has demonstrated that some entities will not protect the rights of others unless compelled to do so. Today, hatred, intolerance, and discrimination persist — and are sometimes even promoted — but by challenging unjust policies rooted in invidious discrimination, G.G. takes his place among other modern-day human rights leaders who strive to ensure that, one day, equality will prevail, and that the core dignity of every one of our brothers and sisters is respected by lawmakers and others who wield power over their lives.

G.G. is and will be famous, and justifiably so. But he is not “famous” in the hollowed-out Hollywood sense of the term. He is famous for the reasons celebrated by the renowned Palestinian-American poet Naomi Shehab Nye, in her extraordinary poem,

*Famous.* Despite his youth and the formidable power of those arrayed against him at every stage of these proceedings, “[he] never forgot what [he] could do.”<sup>2</sup>

Judge Floyd has authorized me to state that he joins in the views expressed herein.

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<sup>2</sup> See N. S. Nye, *Famous*:

The river is famous to the fish.

The loud voice is famous to silence,  
which knew it would inherit the earth  
before anybody said so.

The cat sleeping on the fence is famous to the birds  
watching him from the birdhouse.

The tear is famous, briefly, to the cheek.

The idea you carry close to your bosom  
is famous to your bosom.

The boot is famous to the earth,  
more famous than the dress shoe,  
which is famous only to floors.

The bent photograph is famous to the one who carries it  
and not at all famous to the one who is pictured.

I want to be famous to shuffling men  
who smile while crossing streets,  
sticky children in grocery lines,  
famous as the one who smiled back.

I want to be famous in the way a pulley is famous,  
or a buttonhole, not because it did anything spectacular,  
but because it never forgot what it could do.