

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

L.M., a minor by and through his father and stepmother, Christopher and Susan Morrison,

Plaintiff,

v.

TOWN OF MIDDLEBOROUGH; MIDDLEBOROUGH SCHOOL COMMITTEE; CAROLYN J. LYONS, Superintendent of the Middleborough Public Schools, in her official capacity; and **HEATHER TUCKER**, acting Principal of Nichols Middle School, in her official capacity,

Defendants.

CASE NO.: 23-cv-11111

Honorable Judge Indira Talwani

JOINT MOTION FOR ENTRY OF FINAL JUDGMENT

Pursuant to Fed. R. Civ. P. 54(a), 56, and 65(a)(2), Plaintiff L.M. and Defendants Town of Middleborough, Middleborough School Committee, Carolyn J. Lyons, and Heather Tucker hereby move the Court to enter final judgment based on the factual record established through the preliminary injunction proceedings. In support of this motion, the Parties state as follows:

1. “A district court can convert a preliminary injunction order into a permanent injunction order and may do so without an evidentiary hearing where, as here, the parties agree that no hearing is necessary and where a hearing would serve little purpose.” *Me. Republican Party v. Dunlap*, No. 1:18-cv-00179-JDL, 2018 WL 11183911, at *1 (D. Me. Aug. 3, 2018); *see also Shell Co. (P.R.) v. Los Frailes Serv. Station, Inc.*, 605 F.3d 10, 19 n.4 (1st Cir. 2010) (confirming that where “an evidentiary hearing would have served little purpose . . . the district court’s

conversion” of a preliminary injunction ruling into a permanent injunction ruling “was not error”).

2. On June 16, 2023, this Court entered a Memorandum and Order [Doc. No. 51] denying Plaintiff’s Motion for a Preliminary Injunction [Doc. No. 12].

3. On June 23, Plaintiff filed a Notice of Appeal to the U.S. Court of Appeals for the First Circuit from this Court’s June 16 Order. [Doc. No. 53]. The Parties filed a Joint Motion to Stay Proceedings Pending Appeal [Doc. No. 57] on June 26. This Court set a July 12 hearing on that motion.

4. In advance of the hearing, the Parties agreed that, based on the factual record as established through the preliminary injunction proceedings, judgment as a matter of law is appropriate.

5. The Parties continue to dispute the proper legal outcome of Plaintiff’s constitutional claims. But they agree that further evidentiary hearings would serve little purpose and that the interests of the Parties—and resources of the Court—will be better served by an appeal from a final judgment rather than an interlocutory appeal that could be mooted by a final order or followed by an additional appeal.

6. During the hearing held on July 12, 2023, the parties notified the Court of their agreement described in Paragraphs 4 & 5 and asked that the Court convert its June 16 ruling [Doc. No. 51] into a final judgment without prejudice to any appeal by the Plaintiff, at which time the Court invited the parties to file the instant Motion.

CONCLUSION

For the foregoing reasons, the parties request that the Court grant their joint motion to convert its June 16 ruling into a final judgment, without prejudice to any appeal by the Plaintiff.

Respectfully submitted this 17th day of July, 2023.

s/ Gregg J. Corbo

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CERTIFICATE OF SERVICE

I hereby certify that on July 17th, 2023, I electronically filed the foregoing using the CM/ECF system, which automatically sends an electronic notification with this filing to the following attorneys of record:

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