



Written by [James Murphy](#) on November 30, 2024

Judge Allows Male Player in Female Volleyball Tournament; Boise State Withdraws

Last Monday, Judge S. Kato Crews denied several motions seeking injunctive relief, paving the way for Brayden “Blair” Fleming, a transgender person, to play in the Mountain West Conference’s female volleyball tournament. Mountain West Conference (MWC) members Boise State, Wyoming, Utah State, and Nevada-Reno, as well as non-conference foe Southern Utah, have forfeited matches to Fleming’s team, San Jose State (SJSU), during the season rather than play against the biological male.



Bet_Noire/iStock/Getty Images Plus

Crews [ruled](#) that the plaintiffs “failed to meet their burden to show irreparable harm, a likelihood of success on the merits, or that the balance of harms or equities is in their favor.”

He did note that “No Defendant disputed that SJSU rosters a trans woman volleyball player,” Crews wrote. This acknowledgment is significant because several media outlets have refused to say that San Jose State has a transgender individual on the team.

Title IX

The judge’s decision is rooted in the Biden administration’s rewrite of Title IX. That changed the term “sex” to “gender identity.” “The movants’ Title IX theory raised in this case directly conflicts with Title IX’s prohibition on discrimination against trans individuals.”

In his judgment, Crews wrote:

The threatened injury to the movants if an injunction issues is outweighed by the MWC’s interest in holding the upcoming MWC Tournament without an eleventh-hour shake-up to its currently planned structure. The relief requested with the Emergency Motion would risk confusion and upend months of planning and would prejudice, at a minimum, Defendants and other teams participating in the tournament depending on the results of any reseeding.

The judge also denied Utah State’s request to join the lawsuit as a plaintiff, claiming that the university could not show “irreparable harm.”

Crews ruled that the matches forfeited by teams who refused to play against Fleming would stand as losses for the teams and wins for San Jose State.

Boise State

Boise State, which was slotted to play San Jose State in the semifinals, announced its withdrawal from the tournament. That means San Jose State will only have to win one match to win the tournament.



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Boise State has already endured two losses by forfeit this season because of their team's refusal to play against Fleming.

The school said [in a statement](#):

The decision to not continue to play in the 2024 Mountain West Volleyball Championship tournament was not an easy one. Our team overcame forfeitures to earn a spot in the tournament field and fought for the win over Utah State in the first round on Wednesday.

They should not have to forgo this opportunity while waiting for a more thoughtful and better system that serves all athletes.

The Boise State team won their opening-round match against Utah State, then announced their withdrawal knowing that they would next face Fleming and San Jose State.

Boise State player Katelyn Van Kirk [told OutKick Sports](#):

After that match [against Utah State], we knew that we had come to a decision as a whole department. I feel like it was kind of a lose-lose situation. And in the end, I guess we all had to come to terms with the idea that this is bigger than ourselves and a championship has to be given up for this fight [to protect women's sports] to actually keep going.

Van Kirk's sister Kiersten, also a Boise State player, agreed, saying:

It's just disheartening and heartbreaking that it had to come to this. But I know that we are all working towards future generations being able to have a safe place for female athletes to compete and putting that above ourselves, which is a really hard thing to do because obviously our goal was to win a championship. And I think that it's extremely unfair and really terrible that it had to come to that.

The Van Kirks are also a part of [the lawsuit against the Mountain West Conference](#).

Plaintiffs looked the 10th Circuit Court of Appeals, but it declined to hear the case on Tuesday,

A National Problem

Should San Jose State win their match on Saturday, they will advance to the NCAA Women's Volleyball Tournament. And then, the Mountain West Conference's problem becomes a national one. It remains to be seen if other teams will stand up against the Biden administration's rewriting of Title IX the way the brave young women of Boise State, Wyoming, Utah State, Nevada-Reno, and Southern Utah have.



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