SUPREME COURT OF MISSOURI

en banc

R.M.A.,

Appellant,

v.

BLUE SPRINGS R-IV SCHOOL DISTRICT,

Respondent.

No. SC100694

APPEAL FROM THE CIRCUIT COURT OF JACKSON COUNTY
The Honorable Cory L. Atkins, Judge

R.M.A. appeals the circuit court's judgment sustaining Blue Springs R-IV School District's ("the School District") motion for judgment notwithstanding the verdict ("JNOV") or, in the alternative, the School District's motion for new trial, following a jury verdict in R.M.A.'s favor on a claim for relief under the public accommodation provision of the Missouri Human Rights Act ("MHRA"), section 213.065.[1] R.M.A. raises three points on appeal, alleging the circuit court erred in sustaining the JNOV motion or, alternatively, the motion for new trial, and alleging the circuit court

[1] All statutory references are to RSMo 2000, unless otherwise indicated.

erroneously limited the jury instructions.[2] Because R.M.A. failed to make a submissible case for discrimination on the basis of R.M.A.'s male sex as pleaded and instructed, the circuit court's judgment is affirmed.

Factual and Procedural Background

This case arises from the same litigation as *R.M.A. ex rel. Appleberry v. Blue Springs, R-IV School District*, 568 S.W.3d 420 (Mo. banc 2019) ("*R.M.A. I*"). R.M.A. was a minor child attending public school in the School District at the onset of this litigation. R.M.A. is a female to male transgender individual who, as alleged in the petition, "was born as a female child and transitioned to living as a male in September 2009 while attending fourth grade in the [School District]." R.M.A. petitioned for, and was granted, a change of name to a name traditionally given to males in 2010. In 2014, R.M.A. sought and obtained an amended birth certificate reflecting the name change and changing R.M.A.'s sex designation from female to male.[3] R.M.A. requested permission to use the male-designated restrooms and locker room facilities during the 2013-2014 and 2014-2015 school years – during eighth and ninth grade, respectively – but the School District denied the request.

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[2] The School District also raised two points on appeal, alleging evidentiary errors justifying a new trial. This Court will not review those points, however, because they are not necessary to the disposition.

[3] Section 193.215.9 states: "Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended."

In October 2014, R.M.A. filed a charge of discrimination with the Missouri Commission on Human Rights ("Commission") alleging public accommodation discrimination on the grounds of sex. In July 2015, the Commission issued a notice of right to sue. R.M.A. filed a petition against the School District in October 2015, alleging "R.M.A.'s legal sex is 'male'" and R.M.A. "was discriminated against in his use of a public accommodation on the grounds of his sex" in violation of section 213.065.

The School District moved to dismiss R.M.A.'s petition for failure to state a claim upon which relief could be granted, asserting, *inter alia*, the public accommodation protection in section 213.065 does not cover claims based on gender identity. The circuit court sustained the motion and entered judgment dismissing R.M.A.'s petition with prejudice. R.M.A. appealed. In *R.M.A. I.*, this Court reviewed whether R.M.A.'s allegations matched "the elements of a recognized cause of action." *Id.* at 424 (quoting *Bromwell v. Nixon*, 361 S.W.3d 393, 398 (Mo. banc 2012)).[4] This holding did not require "weigh[ing] the factual allegations to determine whether they are credible or persuasive." *Id.*

R.M.A.'s cause of action alleged public accommodation sex discrimination under section 213.065, which requires a plaintiff to plead the following ultimate facts: (1) plaintiff is a member of a protected class; (2) plaintiff was discriminated against in the use of a public accommodation; and (3) plaintiff's membership in a protected class was a

[4] "Missouri is a fact-pleading state," and a plaintiff need plead only ultimate facts to sufficiently state a claim. *Matthews v. Harley-Davidson*, 685 S.W.3d 360, 366 (Mo. banc 2024).

contributing factor in that discrimination. *Id.* at 425. From there, reviewing R.M.A.'s petition was "simple and straightforward." *Id.* at 425-26. First, the petition alleged "R.M.A.'s legal sex is male." *Id.* at 427 (internal quotation omitted). Second, R.M.A. alleged that the School District had denied R.M.A. access to the boys' restrooms and locker rooms. *Id.* at 426. Because "[a] school's restrooms and locker rooms constitute public accommodations as defined in section 213.010(15)(e)," R.M.A. sufficiently alleged the School District denied R.M.A. the "full and equal use and enjoyment" of a public accommodation. *Id.* (internal quotation omitted). Finally, R.M.A. pleaded discrimination on "the grounds of his sex." *Id.* (internal quotation omitted). The Court found, therefore, R.M.A. had pleaded the ultimate facts to establish a claim of sex discrimination "[a]t this stage of the proceeding," reversed the circuit court's dismissal of R.M.A.'s petition, and remanded for further proceedings. *Id.* at 428, 430.

Notably, this Court declined to define the term "sex" as used in section 213.065, finding the debate over statutory interpretation was premature given the procedural posture because, at the motion to dismiss stage, all that is required of a plaintiff is to allege the elements in section 213.065. *Id.* at 427 n.7. On remand, R.M.A. did not amend the pleadings. R.M.A. also did not challenge the School District's right to provide separate restrooms on the basis of sex.

R.M.A. proceeded to trial in December 2021. The jury found the School District liable for sex discrimination based on R.M.A.'s "male sex," without being instructed regarding a definition of "sex," and awarded R.M.A. $175,000 in compensatory damages and assessed $4 million in punitive damages against the School District. The circuit

court entered its jury trial order and partial judgment attaching and incorporating by reference the jury verdict and indicating it would decide R.M.A.'s requests for attorney fees and equitable relief after the parties submitted additional briefing.

The School District filed a motion for JNOV or, in the alternative, a motion for new trial, alleging R.M.A. failed to make a submissible case for sex discrimination or, alternatively, the jury verdict was against the weight of the evidence. The circuit court sustained the School District's motion for JNOV and conditionally granted a new trial,[5] finding "[t]he sole uncontradicted evidence at trial was that [R.M.A.] was excluded from the male facilities because of his female genitalia."[6]

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[5] On the same day, but prior to the final judgment sustaining the School District's motion for JNOV, the circuit court amended the judgment in accordance with the jury's verdict, awarding attorney fees but denying equitable relief.

[6] Judge Wilson's dissenting opinion suggests the JNOV must be reversed because it was overruled by operation of Rule 78.06 when the circuit court failed to rule on the motion for JNOV for more than 90 days after it was filed. This is incorrect for two reasons. First, Rule 78.06's time limits do not apply when there is not a final judgment. *Schmidt v. Dart Bein, LC*, 644 S.W.3d 579, 582 n.5 (Mo. App. 2022); *accord Gipson v. Fox*, 248 S.W.3d 641, 644 (Mo. App. 2008). "In other words, unless an appeal lies from a decree or order when it is entered, the decree or order is not a 'judgment' as defined in Rule 74.01(a), and is not a 'judgment' as to which Rules 75.01 and [78.06] apply." *Schmidt*, 644 S.W.3d at 582 n.5 (alteration in original) (quoting *Cupit v. Dry Basement, Inc.*, 592 S.W.3d 417, 424 (Mo. App. 2022)). Here, the circuit court had not yet ruled on R.M.A.'s request for equitable relief, preventing the jury trial order and partial judgment entered in accordance with the jury's verdict from being a final judgment. The time limitation in rule 78.06, therefore, does not apply. Second, even if the first judgment was final, the later judgment would merely be considered "voidable." *State ex rel. Hawley v. Pilot Travels Ctrs., LLC*, 558 S.W.3d 22, 29-30 (Mo. banc 2018). "As such, the circuit court's second judgment, [even if] entered without authority, is nevertheless the operative final judgment unless its validity was properly challenged. Failure to challenge a court's authority to take some action waives a party's right to challenge that action." *Id.* at 30. The parties, therefore, waived their rights to challenge the action by failing to object to the later judgment.

R.M.A. appeals.[7]

Standard of Review

A JNOV is appropriate when a plaintiff fails to make a submissible case. *Clevenger v. Oliver Ins. Agency, Inc.*, 237 S.W.3d 588, 590 (Mo. banc 2007). A plaintiff fails to make a submissible case when one or more elements of the claim are not supported by the evidence. *Id.* In determining whether there was sufficient evidence to support the jury's verdict, this Court views the evidence in the light most favorable to the jury's verdict, giving evidence consistent with the verdict the benefit of all reasonable inferences and disregarding evidence that conflicts with the verdict. *Id.* A JNOV after a jury verdict is appropriate "only whe[n] there is a complete absence of probative fact to support the jury's conclusion." *Id.*

"Statutory interpretation is an issue of law that this Court reviews de novo." *State v. Johnson*, 524 S.W.3d 505, 510 (Mo. banc 2017) (internal quotation omitted).

Analysis

Section 213.065 prohibits discrimination in public accommodations "on the grounds of … sex." To make a submissible case of sex discrimination in a public accommodation under the MHRA, a plaintiff must present evidence to support three elements: (1) plaintiff is a member of a class protected under section 213.065.1; (2) plaintiff was discriminated against in the use of a public accommodation; and (3) plaintiff's status as a member of a protected class was a contributing factor in such

[7] This Court transferred the appeal and has jurisdiction pursuant to Mo. Const. art. V, section 10.

discrimination. Section 213.065; *R.M.A. I*, 568 S.W.3d at 424-25. To make a submissible case, R.M.A. must have adduced evidence supporting the following findings: (1) R.M.A. is a member of the male sex as pleaded;[8] (2) R.M.A. was denied full and equal use of the male restrooms and locker room facilities in the School District; and (3) R.M.A.'s male sex was a contributing factor in such denial.

Points I and II: Whether R.M.A. made a submissible case for sex discrimination

Only the third element is at issue in this case. R.M.A. claims to have made a submissible case for sex discrimination because there was substantial evidence that R.M.A.'s male sex was a contributing factor in the School District's denial of access to the male restrooms and locker rooms. R.M.A. specifically argues the School District's consideration of genitalia is an inherently sex-related basis for discrimination. The School District claims, and the circuit court agreed, the only evidence adduced demonstrated the School District denied R.M.A. use of the male restrooms because of R.M.A.'s ***female*** sex, rather than ***male*** sex and, therefore, R.M.A. failed to make a submissible case of discrimination on the basis of ***male*** sex. This Court agrees.

Although R.M.A. and the dissenting opinions couch the issue as a factual dispute, the claim is dependent on the legal definition of the term "sex" as used by the General Assembly in section 213.065. R.M.A. argues, and the dissenting opinions agree, it is unlawful sex discrimination for a public school district to prohibit R.M.A., a student with female genitalia, from using restrooms and locker rooms reserved for male students. This

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[8] *R.M.A. I*, 568 S.W.3d at 427 n.7 ("R.M.A. claims discrimination based on his sex and, therefore, must allege he is either male or female.").

novel argument finds no support in the text or legislative history of the public accommodation provisions under the MHRA.

"An issue of statutory interpretation is a question of law, not fact." *Laut v. City of Arnold*, 491 S.W.3d 191, 196 (Mo. banc 2016) (internal quotation omitted). "The primary rule of statutory construction is to ascertain the intent of the legislature from the language used, to give effect to that intent if possible, and to consider words used in the statute in their plain and ordinary meaning." *Howard v. City of Kan.* City, 332 S.W.3d 772, 779 (Mo. banc 2011) (internal quotation omitted). "Ascertaining the legislature's intent in statutory language should not involve hypertechnical analysis 'but instead should be reasonable, logical, and should give meaning to the statutes.'" *State v. Milazzo*, No. SC100652, ___ S.W.3d ___, 2025 WL 843662, at *3 (Mo. banc Mar. 18, 2025) (quoting *United Pharmacal Co. of Mo. v. Mo. Bd. of Pharmacy*, 208 S.W.3d 907, 912 (Mo. banc 2006)). "[I]t is not within the Court's province to 'question the wisdom, social desirability, or economic policy underlying a statute as these matters are for the legislature's determination.'" *Turner v. Sch. Dist. of Clayton*, 318 S.W.3d 660, 668 (Mo. banc 2010) (quoting *Winston v. Reorganized Sch. Dist. R-2, Lawrence Cnty., Miller*, 636 S.W.2d 324, 327 (Mo. banc 1982)).

Neither MHRA generally, nor section 213.065 specifically, defines the term "sex." *See* section 213.010. "Absent statutory definition, words used in statutes are given their plain and ordinary meaning with help, as needed, from the dictionary." *Hudson v. Joplin Reg'l Stockyards, Inc.*, 701 S.W.3d 862, 865 (Mo. banc 2024) (internal quotation omitted). The term "sex" refers to "one of the two divisions of organic esp. human

beings respectively designated male or female" as well as "the sum of the morphological, physiological, and behavioral peculiarities of living beings that subserves biparental reproduction with its concomitant genetic segregation and recombination which underlie most evolutionary change, that in its typically dichotomous occurrence is usu[ally] genetically controlled and associated with special sex chromosomes." *Sex, Webster's Third New International Dictionary* (2002).[9] This definition is premised on "sex" as a biological classification of individuals as male or female. Accordingly, the plain and ordinary meaning of "sex" refers to one's biological classification as male or female.[10]

This understanding of unlawful sex discrimination in public accommodations based on biological sex, as the plain meaning from the dictionary directs, is reinforced by many subsequent unsuccessful efforts to amend the MHRA to extend its anti-discriminatory provisions to cover public accommodation discrimination based on sexual

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[9] The dictionary's definition of "sex" has remained the same since before section 213.065's enactment in 1986. *See Sex, Webster's Third New International Dictionary* (1961); *Sex, Webster's Third New International Dictionary* (1993); *see also Sex, American Heritage Dictionary* (1976) ("The property or quality by which organisms are classified according to their reproductive functions."); *Sex, Black's Law Dictionary* (6th ed. 1990) ("The sum of the peculiarities of structure and function that distinguish a male from a female organism; the character of being male or female."); *Sex, Webster's Third New International Dictionary* (2002) (same).

[10] R.M.A.'s petition alleged discrimination based on the claim "his legal sex" is "male." This classification and specific phraseology is not consistent with the plain meaning of sex. The term "legal sex" is a misnomer that may be more comparable with the term "gender" and should not be used to analyze the statutory text of public accommodation protections in section 213.065. This Court recognizes the terms "sex" and "gender" have been conflated in the past. *See, e.g., Hill v. Ford Motor Co.*, 277 S.W.3d 659, 666 (Mo. banc 2009); *Doe ex rel. Subia v. Kan. City, Mo. Sch. Dist.*, 372 S.W.3d 43, 52-53 (Mo. App. 2012). Because the public accommodation protections under section 213.065 prohibit discrimination because of "sex," not gender, the term "sex" and the definition of "sex" should be used. *See infra* note 12.

orientation and gender identity. In each legislative session since 2019, the General Assembly has considered and rejected proposed amendments to extend section 213.065 to specifically prohibit discrimination in public accommodations on the basis of gender identity and sexual orientation. *See* SB 172 (2019); SB 945 (2020); HB 984 (2021); SB 711 (2022); SB 60 (2023); SB 787 (2024). Between the plain meaning of "sex" under various dictionary definitions and the legislature's refusal to include sexual orientation and gender identity in anti-discrimination legislation specific to public accommodations, the legislature's intent is clear. "Sex" as used in the MHRA's prohibition of public accommodation discrimination is not meant to extend beyond biological sex.

Judge Wilson's dissenting opinion reaches the opposite conclusion based on an improper reading of the plain language definition of "sex" and a misplaced reliance on the United States Supreme Court case, *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 660 (2020).

First, the dissenting opinion asserts determining an individual's "sex" requires a complex mixture of many varied factors. Although the definition of sex may include morphological, physiological, and behavioral peculiarities, the second half of the definition clarifies each of these factors "subserve[] biparental reproduction with its concomitant genetic segregation and recombination which underlie most evolutionary change." *Sex, Webster's Third New International Dictionary* (2002). Clearly, the sum of various biological traits that "subserve biparental reproduction are controlled "genetically" and "associated with special sex chromosomes[,]" defining "sex" as a biological concept, not as a socially constructed, subjective gender identity.

Second, the dissenting opinion relies heavily on *Bostock*'s statement: "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." 590 U.S. at 660. The dissenting opinion's reliance on *Bostock* is wholly misplaced. The dissenting opinion incorrectly assumes the Supreme Court's interpretation of the federal employment anti-discrimination provisions in Title VII is conclusive as to the MHRA's public accommodation provision. Although this Court's review of cases arising under the MHRA is guided by both Missouri law and federal law, the federal law must be "***consistent with Missouri law***." *Matthews*, 685 S.W.3d at 366 (emphasis added); *Lampley v. Mo. Comm'n on Hum. Rts.*, 570 S.W.3d 16, 22 (Mo. banc 2019); *Daugherty v. City of Maryland Heights*, 231 S.W.3d 814, 818 (Mo. banc 2007), *superseded on other grounds by* § 213.010(2), RSMo. Supp. 2017. The MHRA prohibits discrimination in housing, employment, and places of public accommodation. *See generally* section 213.010, *et seq*. The Civil Rights Act of 1964 similarly prohibits discrimination in employment and public accommodations.[11] In reviewing *employment* discrimination cases, this Court is, therefore, guided by federal *employment* discrimination cases. *Matthews*, 685 S.W.3d at 366 ("When reviewing cases under the MHRA, appellate courts are guided by both Missouri law and any ***federal employment*** discrimination (i.e., Title VII [of the Civil Rights Act of 1964]) case law that is consistent with Missouri law." (emphasis added) (alteration in original)). In reviewing *public accommodation*

[11] Housing discrimination is prohibited federally by the Fair Housing Act. 42 U.S.C. §§ 3601, *et seq*.

discrimination cases, however, this Court is guided by federal *public accommodation* cases. *Bostock* is an employment discrimination case and specifically reserves judgment on cases involving public accommodations. *Bostock*'s holding, therefore, is not conclusive as to the meaning of "sex" regarding public accommodations under the MHRA. Much more persuasive is the General Assembly's enactment of the MHRA consistent with the plain, ordinary meaning of the term "sex" and its consistent rejection of efforts to amend the statute beyond this meaning.

The dissenting opinion's overreading of *Bostock* is plainly evident in *Bostock*'s express limitation, which the dissenting opinion acknowledges yet fails to consider in its analysis. The Supreme Court in *Bostock* specifically stated it did "not purport to address bathrooms, locker rooms, or anything else of the kind." 590 U.S. at 681. If such "compelling, inescapable logic" applies to the public accommodation provision in the MHRA, the Supreme Court's specific carve-out for restrooms and locker rooms would have been unnecessary and nonsensical. Central to the Supreme Court's analysis is that "[a]n individual employee's sex is not relevant to the selection, evaluation, or compensation of employees" and, additionally, "[a]n individual's homosexuality or transgender status is not relevant to employment decisions." *Id.* at 660 (internal quotations omitted). Here, no one disputes that restrooms may be lawfully separated based on sex.[12] As such, there must be a way to categorize sex-separated restrooms.

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[12] In the context of sex discrimination, courts have long recognized the legitimacy of accounting for sex-specific differences because "[p]hysical differences between men and women … are enduring: '[T]he two sexes are not fungible; a community made up

Here, that categorization is based on sex. *See supra* note 12. *Bostock*, therefore, is distinguishable in that a person's sex is relevant to sex-separate restrooms. The dissenting opinion expands the holding of *Bostock* beyond that stated by the Supreme Court and contrary to the express limits on its holding articulated by the Supreme Court.[13] Whether Missouri should or should not extend *Bostock* to public accommodations under the MHRA is a decision for the General Assembly, the policy-making branch of our state government.

Only after determining the General Assembly's intended definition of "sex" under section 213.065, as a question of law, can the Court turn to the question of whether R.M.A. adduced evidence that R.M.A.'s male sex, as defined above, was a contributing factor in the School District's denial.[14] Applying the plain, original meaning of the word

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exclusively of one [sex] is different from a community comprised of both.'" *United States v. Virginia*, 518 U.S. 515, 533 (1996) (second and third alteration in original) (quoting *Ballard v. United States*, 329 U.S. 187, 193 (1946)); *see also* 8 C.S.R. 60-3.040 (11) (requiring employers assure "appropriate physical facilities to both sexes"); 19 C.S.R. 30-85.012(32) (requiring certain nursing facilities provide employees "separate restrooms for each sex"); 20 C.S.R. 2085-12.010(4)(D) (requiring barber, cosmetology, and esthetician schools provide restrooms to "separately accommodate male and female students"). This is also a practice that has been approvingly recognized throughout history. *See generally Adams ex rel. Kasper v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 809 (11th Cir. 2022) (collecting cases); W. Burlette Carter, *Sexism in the "Bathroom Debates": How Bathrooms Really Became Separated by Sex*, 37 Yale L. & Pol'y Rev. 227, 229 (2019).

[13] Other states' courts have declined to follow *Bostock* when the underlying anti-discrimination law is distinguishable and, instead, rely on legislative intent. *See, e.g.*, *Doe v. Catholic Relief Servs.*, 300 A.3d 116, 128-30 (Md. 2023); *Vroegh v. Iowa Dep't of Corr.*, 972 N.W.2d 686, 702-703 (Iowa 2022); *State v. Loe*, 692 S.W.3d 215, 238 (Tex. 2024).

[14] Contrary to the dissenting opinions, the Court is not overriding the jury's role in deciding a question of fact. This Court is obligated to determine questions of law prior to

"sex" as used in section 213.065 demonstrates the circuit court's judgment is correct. Although R.M.A. argues the School District's consideration of genitalia is inherently sex-related, the only evidence adduced at trial was that the School District's decisions were based on the fact that R.M.A. had female genitalia.[15] Under the definition of sex described above, therefore, R.M.A. did not adduce evidence that R.M.A.'s ***male sex*** was a contributing factor in the alleged discrimination. To the contrary, the only evidence presented was that traits related to ***female sex*** motivated the School District's decision.[16] *See supra* note 12.

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sending questions of fact for jury consideration. Specifically, Judge Wilson's dissenting opinion offers an alternative interpretation of the definition of "sex," a term that was not defined in the instructions for the jury. All the evidence highlighted as sufficient for the case to go to the jury presumes a different definition of sex than the one this Court states in its duty to determine a question of law.

[15] Judge Wilson's dissenting opinion also believes the School District's refusal to allow R.M.A. to use the male-designated restroom after R.M.A. obtained an amended birth certificate demonstrates the School District's actions were pretext for its intent to discriminate. Section 193.215.9, however, states: "Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the ***sex of an individual born in this state has been changed by surgical procedure*** and that such individual's name has been changed, the certificate of birth of such individual shall be amended." (Emphasis added). The evidence adduced at trial demonstrated that R.M.A. had female genitalia and had not had gender confirmation surgery.

[16] For this same reason, there was no evidence adduced the School District engaged in sex stereotyping. *See Lampley*, 570 S.W.3d at 25 ("[A]n employee who suffers an adverse employment decision based on sex-based stereotypical attitudes of how a member of the employee's sex should act can support an inference of unlawful sex discrimination."). None of the evidence presented supported an inference the School District made its decision based on how R.M.A. presented as male or based on "stereotypical attitudes" of how a male "should act." *Id.* Instead, R.M.A. asserts the School District discriminated "because he does not meet the stereotypical notions of what it means to be male (i.e., because he has female genitalia)[.]" A person's biological sex, however, is not a stereotype. *See Adams*, 57 F.4th at 809 (finding, in a case decided after *Bostock*, that a bathroom policy separating bathrooms based on biological sex is not

Because there was no probative evidence the School District denied R.M.A. use of the male-designated restroom and locker room facilities because of R.M.A.'s male sex, JNOV was proper. Additionally, because this Court affirms the JNOV in the School District's favor, this Court need not address Point II concerning the circuit court's conditional grant of a new trial.

Point III: Whether the jury instructions were improperly limited

R.M.A. also argues the circuit court improperly granted the JNOV because its ruling was based on elements narrower than those section 213.065 requires. Specifically, R.M.A. argues the element regarding the factors in the School District's decision is not required to be based on R.M.A.'s "male sex." Instead, the element should have referred only to R.M.A.'s "sex." Such solution, however, would run afoul of the public accommodation protections of the MHRA and this Court's precedent. *See R.M.A. I*, 568 S.W.3d at 425 (finding R.M.A., "in substance if not in form," would have to prove R.M.A.'s "***male sex*** was a contributing factor in such denial" (emphasis added)).

R.M.A. also argues the element regarding public accommodations was overly limited because, instead of "males' restrooms and locker room facilities," R.M.A. merely had to prove R.M.A. received inferior access to "public facilities." Male restrooms and locker room facilities were the specific public facilities R.M.A. complained of and were

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based on a stereotype and "does not depend in any way on how students act or identify"). Nor should this Court be persuaded to morph it into a stereotype. *See Tuan Anh Nguyen v. I.N.S.*, 533 U.S. 53, 73 (2001) ("Mechanistic classification of all our differences as stereotypes would operate to obscure those misconceptions and prejudices that are real.").

sufficient to describe the public accommodations at issue. This Court finds the jury instructions were not improperly limited.

Motion for Attorney Fees

Before this case was submitted to the Court, R.M.A. filed a motion for attorney fees on appeal pursuant to section 213.111.2, and the Court ordered the motion taken with the case. Because the MHRA permits an award of attorney fees only to the prevailing parties, this Court overrules R.M.A.'s motion for attorney fees.

Conclusion

The circuit court's judgment sustaining the School District's motion for JNOV is affirmed.

KELLY C. BRONIEC, JUDGE

Russell, C.J., Fischer, Ransom,
and Gooch, JJ., concur; Powell, J.,
dissents in separate opinion filed and
concurs in part in opinion of Wilson, J.;
Wilson, J., dissents in separate opinion filed.