

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

STATE OF TENNESSEE, *et al.*,

Plaintiffs,

v.

NATIONAL COLLEGE ATHLETIC
ASSOCIATION,

Defendant.

No. 3:24-CV-33

**DECLARATION OF JOSH HEUPEL
UNIVERSITY OF TENNESSEE, KNOXVILLE
HEAD FOOTBALL COACH**

1. I am the head football coach at the University of Tennessee, Knoxville (UT). This declaration is based on my own personal knowledge, which is the product of my experience as a high school and college athlete, my twenty years of coaching experience, work with thousands of athletes, and my specific role at UT, where I oversee all aspects of the college football program. If called to do so, I could testify competently to these facts under oath.

2. My athletic career began during high school at Aberdeen Central in South Dakota. I was the quarterback on my high school football team and led my team to a state quarterfinals appearance in 1995.

3. As an undergraduate, I was a national championship-winning quarterback on the University of Oklahoma football team. I was runner-up for the Heisman Trophy in 2000 while leading the Sooners to a victory in the 2001 Orange Bowl, sealing the national title for the Sooners. I was the Associated Press Player of the Year, Walter

Camp Player of the Year Award winner, Archie Griffin Award winner and a consensus All-America performer. During my two seasons as the starting quarterback, I posted a 20-5 record. I graduated from University of Oklahoma with a Bachelor's in Business Marketing.

4. In 2001, I was drafted to play in the NFL, where I was part of two teams. But an injury in my throwing wrist limited my professional football career.

5. I've spent the last 20 years in various coaching roles in Division 1 FBS football at six different schools. In 2018, I became head coach at University of Central Florida, where we enjoyed tremendous success, culminating in an undefeated regular season in my first season as a head coach. In 2021, I then accepted the head coach position at UT

6. As a coach I have won eight conference championships, coached in 18 bowl games, developed two Heisman Trophy winners and five top-five Heisman finishers. I have been named the 2022 Southeastern Conference Coach of the Year and have twice been named a finalist for National Coach of the Year.

7. I took over the UT program when it was coming off a 3-7 season and several players had departed. Since then, I've produced a 20-9 overall record, seven victories over Top 25 teams at the time of meeting, the program's first New Year's Six berth in the College Football Playoff era, and a No. 6 final ranking. UT has surpassed its SEC preseason projected order of finish in both of our first two seasons and secured

its first ten-win regular season since 2003. I also led UT to its first Capital One Orange Bowl appearance in 25 years.

8. Besides these victories, I'm especially proud of how players have developed their athletic careers during my tenure at UT. Ten Vols have been selected in the last two NFL Drafts. And UT produced five selections through the first three rounds of the 2023 NFL Draft which was second highest in the country.

9. I have worked closely with thousands of athletes and gotten to know many of them very well. College is such a key time in a student's life. What makes a school a good fit for a given student really depends on the student, and it depends on a wide range of factors. The financial costs and opportunities at a particular school are often a major factor.

10. Finding the school that's the best fit can make all the difference in a student's happiness, mental health, personal development, and professional future. I have seen students thrive in the right environment. I have had many interactions with former recruits who have expressed regret for the choice they made.

11. When the fit is wrong, sometimes a student can transfer to a better environment. But sometimes being in the wrong environment has consequences that are lasting and far reaching for their well-being and their future. In those cases, there's not always something anyone can do to fully reverse the harm.

12. For student athletes, additional factors can make finding the right fit even more important. Student athletes may only have a few seasons to play, especially

considering the risk of injury. Besides the risk of injury, transferring between schools can shrink the window of a player's college career.

13. I know that many current athletes participate in opportunities related to name, image, and likeness ("NIL"). Those opportunities can be very beneficial for students as a source of financial support, and as a way to develop their own professional identity and business experience.

14. I understand that Plaintiffs are challenging NCAA rules that effectively prevent recruits from meaningfully discussing potential NIL opportunities before they commit.

15. I am familiar with the NCAA's rules restricting the use of NIL during the recruiting process ("NIL-recruiting ban").

16. Only a small minority of student athletes go on to play pro. Because of the risk of injuries in college sports, an early NIL deal could be the best or only NIL deal they might ever secure.

17. The current NIL environment is complicated for everyone involved: current student athletes, prospective student athletes, coaches, schools, collectives, and fans. NCAA rules are vague and confusing. They frequently change and they sometimes conflict with NCAA's prior guidance.

18. Because of the NIL-recruiting ban, the information recruits have about NIL opportunities associated with a given school is incomplete and not always reliable. Athletes want to know about and understand their opportunities, but like my fellow

coaches at UT I feel I have to avoid discussing NIL opportunities in any way, even at a high level, or assisting athletes in navigating this complicated environment.

19. Because we're unable to help recruits navigate these issues, they don't have the full picture of all the opportunities that are available to them, which can cause them to make poor decisions. Recruits often don't know, like we do, the reputation and trustworthiness of who they are working with; without that information, they can pick a school that isn't the best fit for them based on false promises of NIL that never come to fruition.

20. Because selecting the right school is so important, when a recruit goes to a school that is not the best fit, they may end up being deprived of personal or professional opportunities that they will never be able to go back and recreate. UT could be the best fit for some recruits, but some recruits will never know that because the NIL-recruiting ban prevents them from having the full picture of their options. The consequences of a mismatch between player and school are more than just financial ones. It could create mental health issues that could potentially change the entire course of a student athlete's career.

21. And recruits are not the only ones harmed when they end up at a school that's not the best fit. In my experience, whether the right athletes are connected with the right school or the wrong one can have a major impact on the school's other players, the team, the school, the community, and even the state. Getting the best recruits

generally leads to fielding the most competitive teams. And fielding the most competitive teams leads to increased attendance and fan interest.

22. UT competes for the very best players across the country. Knoxville is a larger metropolitan area than many other college towns, and the passion of our fan base is unmatched. Without the NIL-recruiting ban, UT would be even more competitive in recruiting the best athletes to come play here.

23. During my coaching stops at several different colleges, I've coached at (1) a school that were subject to NCAA discipline and penalties, (2) schools where the NCAA had announced an ongoing investigation, and (3) schools where rumors of an NCAA investigation were reported by the press. All of these issues were inherited from prior staffs and none of these were due to my personal actions or actions of those on staff with me. From that experience, I say with full confidence that each situation causes major harms to players, teams, and the relevant colleges.

24. Because NCAA discipline can limit the athletic opportunities for teams and players, each of those situations significantly impacts a team's ability to recruit players (particularly the best recruits) and seriously impacts a team's ability to retain those players.

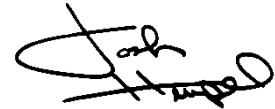
25. In my experience, even just worries about the risk of potential NCAA discipline can cause a recruit to choose a different school.

26. Because of NCAA enforcement (or even the threat of it), recruits can end up choosing a different school than one they might have otherwise chosen. This can

mean athletes attending a university that wouldn't have been the best fit for them. This kind of mismatch not only harms the affected player, it also can harm the team they leave behind, as well as the school, the community, and the state.

27. Harms like these are impossible to fix after the fact. You only get one playing career and you cannot go back in time. These harms can drastically alter the course of an athlete's college education and their professional career (whether as a professional athlete or in another industry). Many of these players don't go on so these four to five years are all they get. We need to put them in position to make the right choice and make the most of their opportunities.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on February, 9, 2024.

A handwritten signature in black ink, appearing to read "Josh Heupel", written in a cursive style.

JOSH HEUPEL