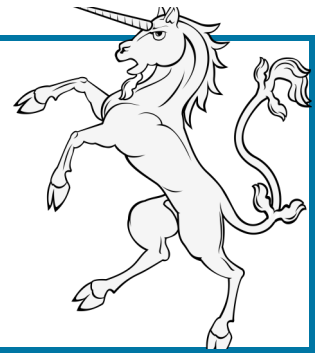


"Nunc Aut Nunquam"

The Unicorn **HORN**



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WE WON, or Have We? SCOTUS DECIDES FOR BOSTOCK, STEPHENS, & ZARA, NOW WHAT?

WASHINGTON - The Supreme Court's landmark ruling in *Bostock v. Clayton County, Georgia*, which was widely praised by LGBTQ advocates but condemned by social conservatives, will likely have broad ramifications that go far beyond employment protections, according to several legal experts.

In the 6-3 decision June 15th regarding the scope of *"employment discrimination based on ... sex,"* which is banned under *Title VII of the Civil Rights Act of 1964*, the high court stated that *"it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex."*

"In Title VII, Congress adopted broad language making it illegal for an employer to rely on an employee's sex when deciding to fire that employee," the ruling, written by Justice Neil Gorsuch, an appointee of President Donald Trump, stated. *"We do not hesitate to recognize today a necessary consequence of that legislative choice: An employer who fires an individual merely for being gay or transgender defies the law."*

Kristen Browde, co-chair of the *National Trans Bar Association* and a Democratic candidate for the New York State Assembly, was among those who stressed the impact of the Bostock ruling.

"This ruling is every bit as significant, if not more so, than the mar-

riage equality decision," she said, referring to 2015's landmark *Obergefell v. Hodges* decision, which made same-sex marriage legal across the United States.

The *Bostock* ruling touched on three LGBTQ employment cases: two dealing with sexual orientation and one focused on gender identity. In a surprise to many, the majority opinion was written by Gorsuch, a conservative whose 2017 nomination by President Donald Trump alarmed many LGBTQ advocates.

Anthony Kreis, an assistant professor at *Georgia State College of Law*, called the opinion a *"full victory"* for LGBTQ advocates and said it was *"straightforward,"* noting that Gorsuch stayed true to his reputation as a textualist, basing his analysis on the plain text of the statute rather than legislative intent.

"There is no hedging," he said of the ruling. *"What constitutes sex discrimination is now an open and shut case."* Kreis noted that the sexual orientation and gender identity cases could have been decided separately, but in writing a single opinion the Supreme Court treated the LGBTQ community as a cohesive entity, with the rights of gay and transgender people *"bound together in a way they have not been formally bound."*

(continue page 2)

Unicorns Gather & Other Club News

Hiram, June 20 - Many of the Clubs Activities to date this year have been effected by the ongoing COVID-19 Pandemic, but on Saturday, June 20th, we gathered at the Manse of Robert Moeller and Bill Metzger. We Thank you for all of the hard work that went into hosting the Club. There was a rather long Business Meeting (as it was only the second one of the year). Among the items discussed were plans for the August 9th Bar Event, which is turning out to be Our First Event of the Year for the Public. Due to the on going Pandemic we felt that we should not hold the Annual Flea Market as it will be unsafe to have so many gathered in the Display area, however a Selection Items will be Offered as Doorprizes throughout the Event. A donation Table will be set up to Support the Unicorn Charities. Plans are still in the making, so watch for the Bar Posters. It is Important to note, that all State Health Department COVID Restrictions will be Observed. After the meeting a Potluck Dinner was served. As a reminder the August Meeting will be held on August 8th, 3 PM, at Jack & Dennis' House, a Picnic will be held afterwards.

Plans for Our 50th Anniversary next year, were discussed, and designs for Vest Pins marking the Anniversary are in the making, along with other memorabilia.

After the Business Meeting had been completed: Our group share a feast of Johnny Marzetti prepared by Bill, while Jack had brought Homemade Provolone Pepperoni Rolls, there was a Lettuce Salad, along with Jim's Bean Salad, the other Jim's Lemon Bars, and Homemade Fudge. After Dinner everyone stayed and chatted around the Fire Pit. One by one as the evening grew near the individual members departed, after thanking Our Host, the first to go, as they were on their Bikes were the Jims. As I left, there were only Bill, Robert and Tony still sitting and talking. It was really Good to be out of Quarantine, if only for a day.

Columbia Station, July 18 - The Annual Great Unicorn Steak Roast was held this year on July 18th, at the home of Jim Hitchcock and Jim Broginski, with some adaptation due to the Pandemic, rather than have each member cook their own Steak with everyone around the Grill, this year the Jims prepared Swiss Steak. The menu was rounded out with, a Salad Bar, Escaloped Potatoes, Broccoli, Ice Cream & Cake, French Bread & Butter, provided by ther other members who attended. All those who attended to observed State Standards for Social Distancing and Face Mask. There was a brief meeting before the fun began at 3 PM with Cocktails, socializing and Dinner. Our Thanks to Jim & Jim for Hosting the herd.

(BOSTOCK, FROM PG1)

Jennifer Levi, an attorney with **GLBTQ Legal Advocates and Defenders**, or GLAD, said the **Bostock** ruling, the first high court decision to deal directly with transgender rights, will have **"broad implications"** that will have an impact on **"housing, education, credit, health care and beyond that as well."**

Justice Samuel Alito, whose dissent in the Bostock case ran more than 100 pages, appears to agree with Levi.

"What the Court has done today, interpreting discrimination because of 'sex' to encompass discrimination because of sexual orientation or gender identity, is virtually certain to have far-reaching consequences," he wrote. **"Over 100 federal statutes prohibit discrimination because of sex."**

The **"potential consequences"** of the **"radical decision,"** according to Alito, include **"women who have been victimized by sexual assault ...seeing an unclothed person with the anatomy of a male"** in a bathroom and subsequently suffering **"serious psychological harm,"** as well as a religious school having to employ a teacher who is in a same-sex relationship or who has undergone sex reassignment surgery.

Until now, lesbian, gay, bisexual, transgender and queer employees had to rely on a patchwork of state nondiscrimination laws that include sexual orientation and gender identity, along with a smattering of federal court rulings in favor of gay and transgender plaintiffs.

Last week's ruling means that LGBTQ people who live in one of the 25 states that offer no explicit protections against workplace discrimination based on sexual orientation and gender identity can file suits in federal court with more hope of success.

"What this does is give those individuals recourse at the federal level," Kreis said.

However, Title VII only covers workplaces with 15 employees or more, meaning some LGBTQ workers could still be unprotected.

Here, there is hope that state courts will interpret their existing sex nondiscrimination laws in a way that is consistent with the **Supreme Court's Bostock decision**. For example, a lesbian employee in Indiana who is fired from a company of 10 people due to her sexual orientation could seek redress only in state court. She would have to ask the state court to construe Indiana law consistent with federal law.

"As a result of the Bostock ruling, state courts, such as those in Michigan and Pennsylvania, Kreis noted, might expand application of their existing nondiscrimination laws. But this is likely to vary by state," he added, **"I don't see the Texas Supreme Court following the Bostock decision."**

Gorsuch's majority opinion, which references the **1993 Religious Freedom Restoration Act (RFRA)**, a federal law that prohibits the government from **"substantially burdening a person's exercise of religion,"** raises the question of employers' ability to claim religious exceptions to their hiring practices.

"Because RFRA operates as a kind of super statute, displacing the normal operation of other federal laws, it might supersede Title VII's commands in appropriate cases," Gorsuch wrote. **"But how these doctrines protecting religious liberty interact with Title VII are questions for future cases."**

Kreis said it is unclear the extent to which the religious freedom act applies to Title VII, which already contains an exception for religious organizations, because the act applies only to government action that places an undue burden on the exercise of religion. However, if courts were to find that the act applies, because sex and sexual orientation are now bound in law, the court might have to say that religious objectors could discriminate against women well as LGBTQ people. Kreis anticipates a Democratic Congress may attempt to disambiguate the law by exempting civil rights law from

the religious freedom act.

There is also another gay rights case before the **Supreme Court, Fulton v. City of Philadelphia**, that deals with whether faith-based child welfare organizations can reject same-sex couples and others whom they consider to be in violation of their religious beliefs. *(the Decision is expected within the week)*

"I think LGBTQ advocates should be less concerned with the application of RFRA and more concerned with religious carve-outs as a matter of constitutional rights, which is what Fulton is all about," Kreis said.

He said, **"if the Supreme Court decides there is a constitutional exemption to nondiscrimination law based on religious liberty, that is not something Congress can easily remedy."**

Joshua Block, an attorney for the **American Civil Liberties Union**, agreed that the ruling in **Fulton** could have a major impact on the extent to which LGBTQ people can enjoy nondiscrimination protections.

"There is a possibility that while the court with one hand extends statutory protections to LGBT people, it might with the other hand gut those same protections by expanding religious freedom defenses," he said.

Title VII does not deal with the military as an employer, though the ruling could have consequences for several pending lawsuits regarding the ban on transgender service in the military.

In July 2017, Trump tweeted that the U.S. military would no longer **"accept or allow transgender individuals to serve in any capacity."** When the administration implemented the measure in April 2019, which it claims is not a **"ban"**, it ended an Obama-era policy that allowed trans men and women to serve openly and to receive transition-related medical care while enlisted.

Several LGBTQ advocacy organizations have filed lawsuits challenging the ban, and four federal courts issued orders forbidding the government from enforcing it. However, in January 2019, the administration **"leapfrogged"** to the **Supreme Court**, which ruled 5-4 to allow the ban to go into effect while legal challenges play out in the lower courts.

"The four district courts that issued injunctions in the first place all determined that the ban was sex discrimination," Levi said. **"This is confirmation from the Supreme Court."**

Levi said the **Bostock** ruling is highly likely to play in favor of prospective transgender service members.

"It really takes the government out at the knees," Levi added.

Many federal laws include the prohibition of discrimination on the basis of sex. Under the Obama administration, government agencies, including the departments of **Health and Human Services, Education, Justice, and Housing and Urban Development**, issued rules to clarify the scope of **"sex" discrimination** to include discrimination based on sexual orientation and gender identity. The Trump administration, however, has issued rules that reverse that interpretation. **"According to experts, the Supreme Court's ruling may have direct bearing on these rules."**

Earlier this month, the **Department of Health and Human Services** issued a final rule that rolls back nondiscrimination protections embedded in the **Affordable Care Act (ACA)** by adopting a narrow definition of sex.

The **HHS** said in a statement it would recognize **"sex discrimination according to the plain meaning of the word 'sex' as male or female and as determined by biology."**

In doing so, the department signaled that programs and providers are not prohibited from denying services to an individual on the basis of their sexual orientation or transgender status.

(continued pg.3)

(BOSTOCK pg.3)

"I don't think that rule aged well," Levi said. **"It is predicated on precisely the argument that the court rejected, taking an extraordinarily narrow and artificial understanding of what sex means."**

The rule is already the subject of litigation. On Monday, *Lambda Legal* filed another suit against the **Trump administration** on behalf of several LGBTQ organizations whose membership will be affected by the new **HHS rule**. **"The new rule is 'in contravention and defiance' of the Supreme Court's decision last week,"** Omar Gonzalez-Pagan, a senior attorney and health care strategist for *Lambda Legal* said Monday on a media call.

"HHS has taken these actions notwithstanding and despite the decision of the Supreme Court of the United States on June 15, 2020 holding that discrimination on the basis of a person's transgender status or sexual orientation is discrimination on the basis of sex," the suit states.

Gonzalez-Pagan said the *Bostock* decision **"really bolsters our case, it is wind in our sails."**

At the **Department of Education**, **Secretary Betsy DeVos** rescinded an Obama-era guidance aimed at protecting transgender students from discrimination under **Title IX** in 2017, and in early 2018 confirmed the department would not follow up on civil rights complaints by trans students prohibited from using the bathroom corresponding to their gender identity. **Title IX of the Education Amendments of 1972 prohibits sex discrimination in federally funded educational institutions.**

Gavin Grimm, a transgender student from Virginia, sued the **Gloucester County School Board** under **Title IX** when he was barred from using the boys bathroom in high school. Grimm is currently awaiting a decision from the **4th U.S. Circuit Court of Appeals**.

"I don't think there is any question that the analysis in Bostock about Title VII would also apply in Title IX," Block said.

Two Title IX cases pertaining to transgender students' participation in sports are making their way through the courts.

Three cisgender (*non-transgender*) athletes sued the **Connecticut Interscholastic Athletic Conference** alleging that they have been deprived of wins, state titles and athletic opportunities by being forced to compete against transgender athletes who were assigned male at birth.

The conference allows athletes to compete as the gender with which they identify, arguing that the policy is in accordance with state law and Title IX, the federal law that allows girls equal educational opportunities, including in athletics.

The **Department of Justice** has sided with the cisgender athletes on the basis of a narrow definition of **"sex."**

In **Idaho**, a similar legal battle is playing out. In March, the state passed the **Fairness in Women's Sports Act**, which prohibits transgender athletes from competing in sports consistent with their gender identity. Idaho is the first state in the nation to enact such a ban.

The **ACLU** filed a suit on behalf of two transgender athletes who argue the Idaho law violates their rights under **Title IX**.

The **Department of Housing and Urban Development** proposed a rule last May that would reverse an Obama-era measure allowing transgender individuals seeking services at government-funded shelters to be housed according to their gender identity, not their sex assigned at birth. **The proposed measure could, for example, have a transgender woman housed in a men's homeless shelter.**

Sasha Buchert, a senior attorney at *Lambda Legal*, said in light of the *Bostock* decision, **"it would be absolutely absurd to move forward"** with this proposed rule.

"The Fair Housing Act prohibits discrimination based on sex," Buchert said. **"What this administration wants to do is ignore existing case law and now the Supreme Court and move forward with the Trump administration's interpretation of the law."**

Congress may be the next battleground when it comes to the clash between religious liberty and LGBTQ rights. The Equality Act, passed by the House in May of last year, would modify existing civil rights legislation to ban discrimination based on sexual orientation and gender identity in employment, housing, public accommodations, jury service, education, federal programs and credit.

Despite the *Bostock* ruling, LGBTQ advocates say the *Equality Act* is important to shore up nondiscrimination protections in federal law.

Kreis said, **"The bill would 'clarify religious exemptions including RFRA' and expand protections to areas like public accommodation, which are not covered by Title VII."**

Nine **Republicans** also introduced a nondiscrimination bill, the **Fairness for All Act**, late last year which would outlaw discrimination against LGBTQ people in many areas but contain religious exemptions, such as allowing religious groups to employ only those who agree with their doctrines. While ostensibly designed as a compromise bill, some civil rights groups, like the **ACLU**, argues, **"That the Fairness for All Act would 'greenlight' discrimination and could weaken 'long-standing protections in federal and state laws for everyone, not just LGBTQ people."**

Meanwhile the *Equality Act* is lying in the **"Graveyard"** that is **Majority Leader Mitch McConnell's Desk**, and Not be brought for a Vote during the Remainder of this Congress.

Remembering Al Bruce, Dan Carmichael and the first Union Contract to Protect LGBTQ Employment Rights

As we celebrate the **U.S. Supreme Court decision protecting LGBTQ people in the work place**, we should take a minute to remember **Al Bruce** and **Dan Carmichael** who won the **first non-discrimination clause in a union contract nearly 40 years ago.**

At the time, there was a stereotype that gays were often weak, but Al and Dan were the toughest of journalist there ever were. Al was from a Native tribe that straddled the U.S.-Canada border and Dan was a white guy from Melbourne, Australia.

They were on the executive committee of the **Wire Service Guild**, a union that represented **United Press International** and **Associated Press** workers in the United States. Al and Dan insisted they make the demand.

The first time, **UPI** agreed to sign a non-published letter guaranteeing non-discrimination on the basis of **"sexual orientation or affectional preference."** Dan had insisted at the time it was the proper wording. In the next round of negotiations they held firm and insisted the wording be published in the distributed contract book. **(Others were obviously working on the same thing and I don't have any solid proof that our agreement was the very first.)**

A similar demand at the **Associated Press**. A bigshot, perhaps a deputy managing editor, drunkenly came into the headquarters at 50 Rockefeller Plaza in New York and published a story saying, **"the union was demanding the right to have a transvestite at presidential press conferences."** He was widely shamed for using the sacred news wires to express his homophobic views. They eventually won a non-discrimination letter from the **AP** as well.

It was the early 1980s in New York and over time it became apparent that both Al and Dan were getting more sick. Al went into some type of care home and passed away from AIDS quite quickly. Dan lived longer, serving unions in a variety of communications jobs.

They were the toughest and most dedicated union people you ever met. **"On this day of the Supreme Court victory, We can all remember all of those who struggled for human rights for all."**

Reflections of Pride

A History

51 years ago June 27th, at about this time of night, if you lived in *New York City* and you were *Queer*, you might be primping up right now, getting ready to head out to a *mafia controlled Queer bar* named *Stonewall Inn* that offered the only respite from near universal homophobic censure you faced nearly every moment of your life.

Strange that freedom only existed for you in such a confined space. It was the only sense of liberation you ever knew. So a smile comes over your face, but so did you quiver in fear and anxiety.

You were too keenly aware that *If the wrong person saw you enter or exit Stonewall, it could ruin your life or be the end of it. If the right person saw you there it could be a chance for sexual exploration, or if you let yourself harbor optimism, that right person could be the love of your life.*

Don't be silly Queen.

So, you get inside safely. Victory! How could such a trivial thing bring such relief? Were you allowed anything more? The 19th century progenitor of modern Queer activism, *Karl Heinrich Ulrichs* spoke of how men of his nature suffered tainted happiness from the spectre of homophobic cruelty leading to suicide. *This "tainted happiness" is why the most banal of things could seem so triumphant for Queers of the Stonewall era.*

If you patronized *Stonewall*, you were not likely to be viewed as respectable by the *Mattachine Society's* assimilationist standards, and you certainly were not respected by anyone in power. *Respectability, civility, and peace were never yours to claim or expect.*

But maybe you were sexually appealing. That boisterously sexy young man seemed to think so. *Now past midnight and into the earliest hours of the 28th of June* you and he made eye contact. He smirked approvingly.

What the heck?

The police raided the bar. Some made it out and began running away.

You were all ordered to line up against the wall and have your ID out. *Panic struck you. Why did you come out? Oh no, what humiliation and disgrace you were to face, and it was all your f—*

Whose fault? Confusion breaks out. Some decided to name whose fault, and it was not their own. The police were at fault. For some reason more and more of you stood up. Refused the shame. Refused the fault. One effort after the next. It began.

A riot. Collectively you and all the other queers summoned Ulrich's courage. In the 1860s Ulrichs went to the German Congress of Jurists and declared his oppression was not his fault. It was not his shame.

"The [police are not] authorized to treat [us] as outside the pale of law," Ulrich declared.

The queers, or as Ulrichs named us, urnings, pushed back. *They escaped the Stonewall Inn, and barricaded the police inside it.*

Now, for the first time in modern history you felt liberation outside a confined space, and the agents of the oppressors were, however brief, now experiencing the confinement. It was they who were humiliated.

The state had failed to heed Ulrichs' words: *"Just because Urnings are unfortunate enough to be a small minority, no damage can be done to their inalienable rights and to their civil rights. The law of liberty in the constitutional state also has to consider its minorities."*

That night, it is recorded, Ulrichs' urnings had done something even more radical than confine the confiners. *They expressed their liberation in the queerest of ways. They publicly displayed their affection for one another.*

Queers kissed each other in public! Maybe the boisterously sexy young man kissed you in public. Maybe, for the first time in your life, a kiss did not feel shameful. *It was more than a kiss. It was a pride you were never allowed to express until the riots.*

The riots lasted a few days, but the epoch of your liberation was merely dawning.

Happy Pride!

Supreme Court makes anti-LGBTQ Discrimination easier at Religious Schools

Chris Johnson

Chief Political & White House Reporter for the Washington Blade

In a decision that undermines LGBTQ teachers at religious schools, the U.S. Supreme Court has affirmed for Catholic schools an expansive ministerial exemption in hiring practices under civil rights law.

In the 7-2 decision issued on Wednesday, July 8th, *U.S. Associate Justice Samuel Alito* writes religious institutions have authority under the *First Amendment* to make employment decisions for teachers who educate in faith matters consistent with their religious beliefs, even if that would be considered unlawful discrimination at secular places of employment, such as anti-LGBTQ discrimination.

"The religious education and formation of students is the very reason for the existence of most private religious schools, and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission," Alito writes. *"Judicial review of the way in which religious schools discharge those responsibilities would undermine the independence of religious institutions in a way that the First Amendment does not tolerate."*

Joining *Alito* in the decision were conservative justices *John Roberts, Brett Kavanaugh, Neil Gorsuch, Clarence Thomas* as well as liberals *Elena Kagan* and *Stephen Breyer*. Dissenting from the opinion were *Sonia Sotomayor* and *Ruth Bader Ginsburg*.

The *Supreme Court* makes the decision in the consolidated cases of *Our Lady of Guadalupe School v. Morrissey-Berru, Agnes and St. James School v. Darryl Biel*, which were brought by Catholic schools seeking an expanded ministerial exemption in the face of lawsuits from teachers suing the schools for employment discrimination.

Alito bases much of his ruling on the Supreme Court's previous decision in 2012 in the case of *Hosanna-Tabor Evangelical Lutheran Church & School v. Equal Employment Opportunity Commission*, which determined religious schools have a ministerial exemption, but declined to identify its scope.

Although *Alito* concedes teachers at schools in the cases at hand weren't given the title of minister, he concludes their cases *"fall within the same rule that dictated our decision in Hosanna-Tabor."*

"We declined to adopt a 'rigid formula' in Hosanna-Tabor, and the lower courts have been applying the exception for many years without such a formula," Alito writes. *"Here, as in Hosanna-Tabor, it is sufficient to decide the cases before us. When a school with a religious mission entrusts a teacher with the responsibility of educating and forming students in the faith, judicial intervention into disputes between the school and the teacher threatens the school's independence in a*

way that the First Amendment does not allow.”

In her dissent, Sotomayor writes the majority opinion *“skews the facts, ignores the applicable standard of review, and collapses Hosanna-Tabor’s careful analysis into a single consideration: whether a church thinks its employees play an important religious role.”*

“That is, the court’s apparent deference here threatens to make nearly anyone whom the schools might hire ‘ministers’ unprotected from discrimination in the hiring process,” Sotomayor continues. *“That cannot be right. Although certain religious functions may be important to a church, a person’s performance of some of those functions does not mechanically trigger a categorical exemption from generally applicable anti-discrimination laws.”*

Despite ruling for an expansive ministerial exemption under the First Amendment, Alito appears to word his decision carefully so that the immediate application is the cases at hand: Teachers at religious schools who are expected to lead in prayer and teach the faith.

Thomas writes in a concurring opinion the decision didn’t go far enough, arguing the Supreme Court should have given religious schools even more good-faith leeway in the hiring of non-ministerial positions.

“Although the functions recognized as ministerial by the Lutheran school in Hosanna-Tabor are similar to those considered ministerial by the Catholic schools here, such overlap will not necessarily exist with other religious organizations, particularly those ‘outside of the ‘mainstream,’” Thomas writes. *“To avoid disadvantaging these minority faiths and interfering in ‘a religious group’s right to shape its own faith and mission,’ courts should defer to a religious organization’s sincere determination that a position is ‘ministerial.’”*

The Becket Fund for Religious Liberty filed a petition for review before the Supreme Court after federal appeals courts ruled in favor of the teachers and against the schools. The court accepted and heard arguments in May, when justices appeared to lean toward an expanded religious exemption.

Eric Rassbach, vice president and senior counsel at Becket, argued the case to the Supreme Court and said in a statement the decision is *“a huge win for religious schools of all faith traditions.”*

“The last thing government officials should do is decide who is authorized to teach Catholicism to Catholics or Judaism to Jews,” Rassbach said. *“We are glad the court has resoundingly reaffirmed that churches and synagogues, not government, control who teaches kids about God.”*

On its face, the decision has nothing to do with LGBTQ workers. The schools raised the ministerial exemption claims in response to litigation from teachers alleging wrongful termination for other reasons.

One teacher alleges she was terminated based on age discrimination, the other based on disability after having to request time off to treat cancer. The schools have maintained the termination was the result the teachers not fulfilling their ministerial roles at the schools.

But the decision has implications for workers at religious schools across the board, including LGBTQ teachers. After the Supreme Court just last month determined in the case of *Bostock v. Clayton County* anti-LGBTQ discrimination is prohibited in the workplace under Title VII of the Civil Rights of 1964, the latest ruling expands religious carve-outs under that law to enable discrimination.

Gay teachers could potentially be barred from suing a Religious schools if they’re terminated for entering into a same-sex marriage, or transgender teachers if they’re fired for undergoing a gender transition. The only saving grace may be the analysis in the ruling, which heavily draws on the demonstrated expectation teachers would engage in faith-based leadership for their jobs to fall under the ministerial exemption.

The scope of the ruling doesn’t stop with LGBTQ people. The breadth of

the decision based on the First Amendment undercuts any and all laws and policies prohibiting discrimination on any basis, including race, gender, disability, HIV status, national origin. That includes federal laws like Civil Rights of 1964 as well as any state law or city ordinance prohibiting discrimination.

Shannon Minter, legal director for the *National Center for Lesbian Rights*, wrote in an email to the Blade the immediate impact of the decision is *“limited,”* but the analysis is *“disturbingly broad and appears to open the door to sweeping new exemptions to anti-discrimination laws.”*

“Depending on how the court applies this decision in future cases, it may enable religious employers to evade civil rights laws simply by claiming that virtually any employee is somehow fulfilling an important religious function,” Minter said. *“Protecting religious liberty is important, but this decision goes too far and leaves far too many employees vulnerable to being fired or abused for reasons that have nothing to do with religious beliefs.”*

Such discrimination may well happen, and perhaps even increase for LGBTQ teachers as result of the Supreme Court decision. *Although corporations over the years have grown more accepting of LGBTQ people, anti-LGBTQ discrimination at religious institutions continues to be an ongoing issue.*

Robyn Blumner, legal director for the pro-secular *Center for Inquiry*, said in a statement the Supreme Court decision is *more expansive than it seems and turns legal jurisprudence for civil rights law on its head.*

“This doctrine was intended to prevent the government from being able to dictate to churches who could serve as a preacher,” Blumner said. *“Here, it’s being used as a wink-and-nod to religious schools so they can safely ignore anti-discrimination laws and leave their fired employees with no legal recourse. So the Supreme Court has yet again chosen to give religious groups the ultimate privilege: immunity from obeying the same laws as everyone else.”*

An estimated 300,000 lay teachers at religious schools will now be subjected to having their non-discrimination removed as a result of the Supreme Court decision, according to an estimation in May from Jeffrey Fisher, an attorney with the Menlo Park, Calif.-based law firm O’Melveny & Myers LLP, who represented Catholic school teachers in the case.

Maggie Siddiqi, director of the faith and progressive policy initiative at the Center for American Progress, said in a statement the breadth of discrimination of the Supreme Court ruling would allow is considerable.

“Today’s ruling means religious institutions who wish to fire or refuse to hire school teachers or other staff based on age, race, sexual orientation or other discriminatory factors now have legal cover for doing so,” Siddiqi said. *“This decision could strip away the right of millions of workers at religious institutions, from teachers to health care professionals, to sue employers if they experience employment discrimination. These critical legal rights should not be denied to workers.”*

The *Trump administration* had argued before the *Supreme Court in favor of the expanded religious exemption* for Catholic schools. It remains to be seen how it will implement the decision, or if it will factor into the administration’s yet-to-be-announced plan for implementing the pro-LGBTQ ruling from last week.

The *Justice Department* didn’t immediately respond to the Blade’s request to comment on the ruling, nor did the *White House* immediately respond to the Blade’s request to comment on whether President Trump was briefed on the decision.

One agency that is likely affected is the *U.S. Equal Employment Opportunity Commission*, which is charged with enforcing employment civil rights law and even before the U.S. Supreme Court decision for LGBTQ rights had been accepting charges of anti-LGBTQ discrimination in the workforce.

Kimberly Smith-Brown, a spokesperson for the *EEOC*, said the ruling will

inform the agency's work, but a review is underway on the extent of the decision.

"The Supreme Court decision today provides additional clarity about the ministerial exception," Smith-Brown said. ***"We are reviewing the decision to determine how it will impact EEOC's enforcement of workplace civil rights laws."***

Because the reasoning of the opinion is based on the First Amendment, reversing the decision won't be easy. Even passage of the Equality Act, legislation to bar anti-LGBTQ discrimination, won't help because the legislation makes no attempt to alter the ministerial exemption under the Civil Rights Act, and even if it did, the U.S. Constitution trumps statutory law.

Instead, reversing the decision in the *Our Lady* cases would require judicial reconsideration, which would likely require changing the makeup of the **Supreme Court**, or passage of a **U.S. constitutional amendment**, which is an arduous task that requires a two-thirds majority vote in both chambers of Congress, then ratification from three-fourths of the states.

The Blade has placed a request with the **Human Rights Campaign** and the **National Center for Transgender Equality**, which had been among the chief advocates of the **Equality Act**, seeking comment on the way forward after the decision.

Jennifer Pizer, law and policy director at **Lambda Legal**, didn't hold back in her assessment of the ruling, saying it has ***"opened a veritable Pandora's Box that threatens the continued employment and financial security of thousands of teachers at religiously affiliated schools."***

"While there is no serious dispute that top authorities at churches and religious schools are free to select those who lead worship services or teach the tenets of their faith, it stretches the term 'minister' beyond recognition to also include those whose jobs or duties have little to do with propagation of the faith," Pizer said. ***"Teachers of secular subjects are not clergy by any reasonable understanding of the word. They should not be deemed clergy simply to shield their employers from liability for wrongful workplace practices."***

A Judge has ruled on Trump's Battle with a Same-sex Family

It didn't go well for Trump.

A U.S. District Judge has ruled in favor of a male same-sex couple fighting the U.S. State Department after the government claimed their child born via a surrogate wasn't a U.S. citizen.

The couple's case is actually one of a handful of similar cases being fought in courts against the Trump administration's policies against same-sex couples.

Roe Kiviti and Adiel Kiviti sued the State Department after it denied their child a U.S. passport by claiming their daughter wasn't a U.S. citizen because she was born in Canada with no genetic relationship to one of her fathers.

The Kivitis are both naturalized U.S. citizens who were born in Israel: Roe has lived in the U.S. since 1982 and became a U.S. citizen in 2001. Adiel moved to the U.S. in May 2015 and became a U.S. citizen in January 2019. A surrogate gave birth to ***their daughter, Kessem, in Canada in February 2019 via Adiel's sperm and a donated egg.***

The State Department claimed that the couple's child wasn't a U.S. citizen because its biological father, Adiel, hadn't lived in the U.S. long enough to satisfy its five-year residency requirement to be considered a U.S. citizen. But U.S. District Judge Theodore Chuang rejected the State Department's thinking.

The legal snag creating problems for the Kivitis and other gay couples began in 2017 when the State Department changed its handing of the 1952 Immigration and Nationality Act (INA). Before 2017, under the INA, a child born to a married couple living abroad had a right to

American citizenship at birth if one of their parents was an American citizen.

But in 2017, the State Department's website declared, ***"A child born abroad must be biologically related to a U.S. citizen parent. Even if local law recognizes a surrogacy agreement and finds that U.S. parents are the legal parents of a child conceived and born abroad... if the child does not have a biological connection to a U.S. citizen parent, the child will not be a U.S. citizen at birth."***

The Kiviti's case was similar to that of ***Andrew and Elad Dvash-Banks***, a married American-Canadian and Israeli couple whose ***surrogate-born son*** was denied a passport when the State Department said he wasn't American because he contained the Israeli-born father's DNA.

The U.S. District judge in that case ruled that the law doesn't require a person born during their parents' marriage to demonstrate a biological relationship with both of their married parents.

A similar legal battle is also being fought in the courts over the ***Zaccari-Blixt family***, a female same-sex couple with surrogate-born kids.

In all of these cases, the children would automatically be considered U.S. citizens if their parents were different-sex couples.

Immigration Equality executive director ***Aaron Morris***, said, ***"It's just really frustrating and cruel that [the State Department] won't change this policy, especially when they've never articulated a single governmental interest that is served by the policy."***

Trump Admin Supports Discrimination Against LGBTQ+ Families

The **Supreme Court** announced in February that it would hear ***Catholic Social Services' appeal***. The Catholic group claims that by ending the contract, the city is violating its constitutional right to free exercise of religion. ***The Trump administration has filed a brief in a Supreme Court case in favor of allowing adoption and foster care agencies to discriminate against same-sex couples, even if they receive taxpayer funds.***

The **U.S. Department of Justice** agrees. In its friend-of-the-court brief — such briefs are filed by parties that are not directly involved in the case but want to offer an opinion, it notes that Catholic Social Services will not approve child placements with unmarried couples, and because of its religious beliefs, it considers all same-sex couples unmarried. It will place children with single people, including those who are gay or lesbian, the brief says, but it will not recognize a same-sex relationship. It will refer unmarried couples elsewhere.

The city's policy shows hostility to religion, according to the Justice Department's brief, filed this week by ***Solicitor General Noel Francisco***. The brief contends that ***Philadelphia*** will allow exemptions from the antidiscrimination ordinance for secular reasons, such as an adoption agency's preference for parents of a certain race, but not those that are religiously motivated.

"Denying an exception here produces the very outcome that Philadelphia ostensibly seeks to avoid, it excludes foster families affiliated with Catholic Social Services not because of the best interests of the child, but because of the City's disagreement with this religious organization's view of same-sex marriage," the brief reads.

The **American Civil Liberties Union**, which is defending the city, issued a statement, ***"The Trump administration submitted a brief to the Supreme Court on the side of a taxpayer-funded agency that is seeking a constitutional right to turn away people who fail to meet the agency's religious criteria, not only will this hurt children in foster care by reducing the number of families to, care for them, but anyone who depends on a wide range of government services will be at risk of discrimination based on their sexual orientation, religion or any other characteristic that fails a provider's religious litmus test."***



WHEN YOU CARE ENOUGH TO SEND THE VERY WURST

Fellow skinheads and sausage stuffings: what an amazing hand we have been dealt by that wiener-brain in the Maison Blanche these past pair of months; a thrill a day, now take him away...pullleeze! All right, already; I know that Jack is supposed to write all about politics and I'm just kept around to tend to artistic matters, like choreographing Randy Rainbow's next platinum record's video, but these are times that try men's souls and heels! Just imagine, the Trump motto, translated from the Latin in the family coat of arms, the only one in the Borough of Queens, reading "An Outrage a Day Keeps the People at Bay". Well Fatso, the paint on that thar escutcheon is beginning to flake off and yew'd

better wise up, 'cause we're learning yer lingo and an increasingly growing majority of us don't like what we hear or the hideous, ungodly mess that we see.

The menace that we have named COVID19, is a pandemic which you ignored for more than three months while you called it a hoax cooked up by Democrats, while, at the same time, flying hither and yon at public expense, leading rallies of low types, inciting and catering to our vilest political instincts of racism, bigotry, and hatred. All this at a time when medical authorities whom you continue to dishonor and scientific proof at which you scoff, warn against mass gathering, you attempt to pack in the confused and uneducated at the risk of their lives to merely justify your fatuous vanity. Well, the tide is turning, the crowds are diminishing and your audience appeal is flattening.

Today, as I write this, you were supposed to rally in New Hampshire, a gorgeous state but one that is probably the last bastion of blind conservatism in New England. Then your staff announced its cancellation because of possible danger from a hurricane moving northward along the Atlantic coast. In the morning, the National Weather Service announced that the storm would turn out to sea after New York City and miss northern New England, the cancellation remained. It was later leaked to the press, by "rats" in Trump's staff that demand for the tickets for the New Hampshire rally had fallen well below projections. Instead, as a diversion, our leader attempted a death blow to our national rule of law with a stunning substitute for the rally. He had his chief henchman and yes-man, Attorney-General William Barr discharge a pair of New York prosecutors working on charges of criminal activity by Trump in the state of New York and then, as a metaphorical cherry atop the whipped cream, as it were, he commuted the upcoming prison sentence of Roger Stone, his former adviser and crony, and twice confessed felon, which was due to begin the following week. (Cyclops suggests, perhaps, unsavoury trade-offs to prevent Stone's squealing lots to a very interested public about possible misdeeds by our leader. Imagine!

Also we have Trump's feuds with the Center for Disease Control (Whadda they know?) about his edict to open schools as early as mid-August; CORONA19, be-damned! This is sounding wild alarms among governments in such states as California, Texas, Louisiana, Arizona, Florida, and North Carolina whose virus cases and deaths are in eruption mode; running out of hospital beds, and haven't the faintest idea how they will protect the thousands of children, teachers, and staff returning to those schools.

Unemployment is at an all time high since the Great Depression of the 1930s. Thousands of small businesses are closing. Government financial

grants have helped many of them with little grants. It has also been reported that some large businesses, including some Trump properties have received grants in the millions. None of these grants need be repaid. There is a growing clamor to thoroughly investigate Trump's tax returns and full financial disclosure, but so far, the President's attempts at prevention, after more than three years remain secure.

In Ohio, after fine preparation against CORONA19, Governor DeWine caved in attempts to forestall the state's e-opening. A large spike in cases of the virus and resulting deaths in the thousands here and nationwide, had put the lid back on. Young adults seem to be the main culprits in their heedless desire to have fun at any cost to health and their lives. Cuyahoga County, as well as others of our major metropolitan areas, have enacted mandatory face mask laws for all people in public places.

Our President's inaction, for three months to the arrival of the Corona virus to our shores, blaming his inept, indifferent performance of duty, as usual, on others; the Chinese, the Democrats, Obama, Hillary Clinton, the Fake News, rioting people of color; people of color dead from police assault, the Postal Service – you name it, is unquestionably traitorous and

a major crime against the nation, if not humanity! This morning, he made television news again. Arriving with an official cortege for a visit to Walter Reade Hospital outside Washington, he was wearing, for the first time ever, a sanitary face mask. Later, he was seen to slip out of the hospital not wearing it. If only!

KEEPING BUSY DURING THE PLAGUE.....

Many of us have been well cloistered during our national misadventure, slipping away once a week for provisions, if lucky. My friend the Craftsman has so honored me with his care, masked and rubber gloved to my favorite trio of food stores which are Heinen's, Whole Foods, and Aldi, and once to the West Side Market for affordable fine meat. I have a working television, telephone, and the ability to make do by modestly eating just two meals a day which has worked wonders on my inactive waistline. I have a neighbor who climbs up and down the stairs for seven flights for his daily exercise. Many of us do evening laps around the building, again well masked. There is plenty of time to bake, read, and watch old films or new ones by streaming on one's computer. New York's great Metropolitan Opera, closed for the rest of this year, has been streaming a pre-televised opera performance each night, as has the glorious National Theatre of Britain – imagine the divine Cumberbatch as Dr. Frankenstein's monster!

I joined a fascinating new on-line site with great opportunities to correspond and/or chat with others from across the nation and around the world. I have made a couple of superb new friendships and have every intention of meeting them face-to-face one day. (Being locked-down is dandy for setting new goals for oneself!) In the case of many total strangers who have visited my profile, I have responded positively with always a political reminder to stay safe, stay masked and separated in public, and that COVID19 is NOT a hoax!

I have caught up on a variety of long postponed reading. One of my new friends overseas informed me that he is a great fan of Hilary Mantel's "Wolf Hall" trilogy, only he listens to it on tape, enjoying enormously being read to while he does an enormous amount of home baking which he shares during lock-down with his neighbors and sends me pictures of his beautiful confections. Thanks also to Clint and David for great sense in on-line work for he Elyria Arts Council, shuttered like my beloved Cleveland Museum of Art, and Wade Park VA Hospital; indeed, sadly missed activities. And special thanks to Ed, Dan, Albert, Chas, KK, Chip and Ranchhands for a memorable 4th. Stay Safe, Stay Masked. This is NOT a hoax, **CY**



Non-Discrimination Policy Statement

"Any man's death diminishes me because I am involved in mankind" -Donne

Recent events have compelled us as the Cleveland Unicorns MC to examine and take action against the multifaceted nature of racism in our local and surrounding areas. Racism is dehumanizing to everyone it touches.

Our club has always held a longstanding value of upholding social justice for all peoples. We are a caring club, welcoming and respecting of diversity. Racism of any form will not be and has never been tolerated. The world as a whole must examine racism beyond the actions of individuals, for it is embedded in the very fabric of our society. But we as individuals do need to start somewhere.

As an anti-racism club we vow to purposefully identify, discuss and challenge issues of race and color and the impact(s) they have on our local and surrounding areas. We also challenge ourselves to understand and correct any inequities we may discover and gain a better understanding of ourselves during this process.

We are resolved to explicitly and publicly affirm our identity as an anti-racist male inclusive gay motorcycle club.

We are resolved that our anti-racism commitment be reflected in the lives of our members and how they live every day.

We resolve to develop and work to implement strategies that dismantle racism within all aspects of our club, community and society as a whole.

The Cleveland Unicorn MC does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

As a gay male inclusive club our members and associates are male and male identified. We encourage female and other identified peoples to support and attend our events as all are welcome. We celebrate diversity and encourage everyone to attend our events and know that our events are a safe space for everyone. It doesn't matter what race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status is. We are family. We are community. You are all safe and welcome.



*We would like to Extend
The Happiest of Birthday Wishes to
Brother Tom Johnson, July 28th*

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Deadline for inclusion on the Calendar is the 15th of the month, in advance of the event.

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