

Why Courts Matter: LGBT Rights

The federal courts play a pivotal role in the lives of gay and transgender Americans, often serving as the last resort in protecting LGBT rights. Who sits on these courts matters, and current vacancies must be filled with judges who understand that the Constitution provides LGBT Americans the same freedoms as everyone else.

Marriage equality at the U.S. Supreme Court : Federal courts across the country are now considering a variety of challenges involving marriage, relationship and family protections for same-sex couples. The future of those challenges will be determined by the outcome of two cases before the U.S. Supreme Court this spring. In ***Hollingsworth v. Perry***, which challenges California’s Proposition 8, the Supreme Court will determine whether a state can deny LGBT individuals the right to marry. In ***United States v. Windsor***, which challenges the federal Defense of Marriage Act, the Supreme Court will decide whether the government can refuse same-sex couples the same benefits and rights granted to different-sex couples.

Discrimination in the workplace: When employers discriminate against LGBT individuals, the federal courts are often the only recourse, as seen in the following recent cases:

- The Georgia General Assembly fired a woman serving as its legislative editor after she told her supervisor that she planned to transition from male to female. In 2011, the 11th Circuit concluded the government violated the employee’s equal protection rights.
- The Library of Congress revoked an employment offer to serve as a terrorist researcher from a highly decorated military veteran after learning the applicant was undergoing gender transition. The U.S. District Court for the District of Columbia in 2008 ruled that discrimination on the basis of changing genders is considered sex discrimination and awarded money damages.
- More than 10 years ago, a lesbian family therapist for a publicly funded faith-based foster home was terminated on the grounds that her “homosexual lifestyle [was] contrary to [the organization’s] core values.” She brought a lawsuit challenging the publicly funded religious institution’s discriminatory hiring methods. Her case is still pending before the 6th Circuit.
- The Atlanta Police Department disqualified an HIV-positive man from a position as a police officer after learning of his medical condition. The Northern District of Georgia threw out the case but the 11th Circuit overturned the district court’s ruling in February 2012 and sent the case back to the lower court for further proceedings. Following the 11th Circuit ruling, the police department settled, awarding the plaintiff \$250,000.

Harassment in public schools: Gay and transgender youth face harassment, bullying and denial of equal treatment almost on a daily basis in public schools. The federal courts were sought to protect LGBT student rights in the following cases:

- In 2010, school officials canceled the high school prom at a Mississippi public school rather than let a student attend with her girlfriend. The Northern District of Mississippi ruled that school officials violated the student’s rights and ordered the school to hold prom so she could attend with her girlfriend.
- Charlie Pratt endured years of antigay bullying while at school. The principal refused to take action, telling Charlie to “tone it down.” Charlie, who was forced to withdraw from school, filed suit against the school district. The case is now pending before the Northern District of New York.

Diversity in the judiciary

A diverse federal bench improves the quality of justice and instills confidence that judges understand the real-world implications of their decisions. Openly gay individuals are not well represented in the federal judiciary, but that is beginning to change.

- Prior to Obama’s presidency, the only openly gay federal judge was **Deborah Batts**, an African American woman appointed by President Clinton to the U.S. District Court for the Southern District of New York.
- Four of Obama’s openly gay nominees have been confirmed, including **J. Paul Oetken**, the first openly gay man on a federal court, and **Pamela Chen**, the first openly gay Asian American federal judge.
- Obama has nominated nine openly gay candidates to the federal bench, including what would be the first openly gay African American man on a federal court, William Thomas, and the first Latina lesbian on the federal bench, Nitza Quiñones Alejandro.
- Obama has nominated Todd Hughes to the Federal Circuit to become the first openly gay judge on a federal appeals court.