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The Court Cases That Changed L.G.B.T.Q. Rights



Supporters and opponents of Prop 8 listen to the proceedings live via Jumbotron. Credit Jim Wilson/The New York Times

By Chris Geidner

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Beginning before Stonewall and continuing in the 50 years since, lesbian, gay, bisexual and transgender people have regularly turned to the courts for protection against mistreatment or to overturn laws that targeted them. From H.I.V.-based discrimination to the fight for marriage equality to President Trump's attempt to ban transgender people from the military, courts across the country have played a key role in the story of L.G.B.T.Q. rights in America.

Gay magazine/obscenity



The October 1954 issue of One magazine.

1958: One, Inc. v. Olesen – United States Supreme Court

In a one-sentence opinion, the Supreme Court provided constitutional protection for a gay magazine started by the Mattachine Society, reversing a lower court's decision that had found the publication to be obscene.

First trio of marriage cases



Jack Baker and Michael McConnell at their wedding in Minneapolis on Sept. 3, 1971. Credit Paul R. Hagen

Some of the first cases seeking equal marriage rights for same-sex couples were brought soon after Stonewall. They were, however, roundly rejected.

1971: Baker v. Nelson – Minnesota Supreme Court / **1972:** United States Supreme Court

Jack Baker and Michael McConnell asked the United States Supreme Court to declare that Minnesota's failure to let the two men marry violated the Constitution. The court didn't even hear arguments in the case, declaring the issue didn't raise "a substantial federal question."

1973: Jones v. Hallahan – Kentucky Court of Appeals

When Marjorie Jones and Tracy Knight sued to get a marriage license, the court denied the two women's request, declaring that "what they propose is not a marriage."

1974: Singer v. Hara – Washington Court of Appeals

John Singer and Paul Barwick cited Washington State's new Equal Rights Amendment as a reason for requiring that state to allow same-sex couples to marry, but the court cited the Kentucky case in nonetheless rejecting their request.

Transgender rights



Renee Richards, the transgender tennis player, in a match on Sept. 1, 1977 during the United States Open Competition at Forest Hills, N.Y. Credit Dave Pickoff/Associated Press

1977: Richards v. United States Tennis Association – New York County Supreme Court

Renee Richards, a transgender woman, sought to play in the United States Open. After being denied entrance in 1976, she sued, winning an injunction under New York law and participating in the 1977 competition.

Sodomy laws



Michael Hardwick, the defendant in *Bowers v. Hardwick*, a case that ultimately upheld laws criminalizing sodomy, in Atlanta, Georgia, on Sept. 7, 1986. Credit William Berry/Atlanta Journal-Constitution, via Associated Press

1986: *Bowers v. Hardwick* – United States Supreme Court

As the AIDS crisis hit and anti-gay hysteria took over public depictions of gay men's lives, the Supreme Court ruled that Georgia's criminal sodomy law was constitutional — declaring that such laws “have ancient roots” and setting forth a pivotal rejection of gay rights that took nearly 20 years to overturn.

Relationship recognition

1991: In re Guardianship of Sharon Kowalski – Minnesota Court of Appeals

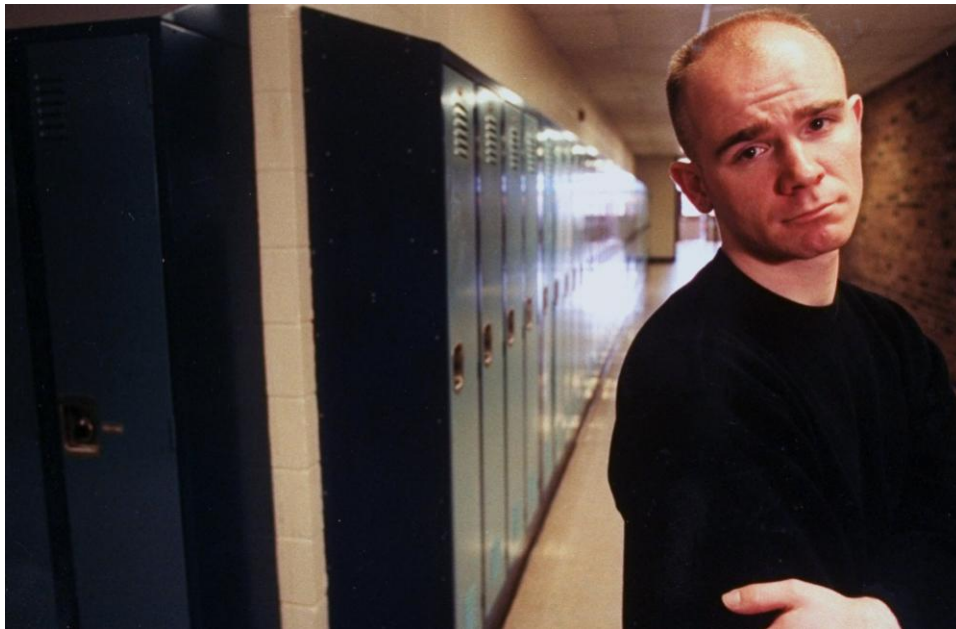
After Sharon Kowalski was seriously injured in a car accident, her partner, Karen Thompson, spent nearly a decade fighting with Ms. Kowalski’s family to be named her guardian — a key question as gay men addressed similar concerns when partners with unsupportive families received diagnoses of H.I.V. The courts eventually sided with Ms. Thompson, granting her guardianship.

Anti-gay and anti-bisexual discrimination

1996: Romer v. Evans – United States Supreme Court

The first of Justice Anthony M. Kennedy’s series of opinions advancing gay rights was a decision striking down a Colorado amendment that banned cities from passing antidiscrimination laws that protected gay and bisexual people. He wrote that the law was “unprecedented” in the way that it eliminated a whole group of people’s “right to seek specific protection from the law.”

School safety

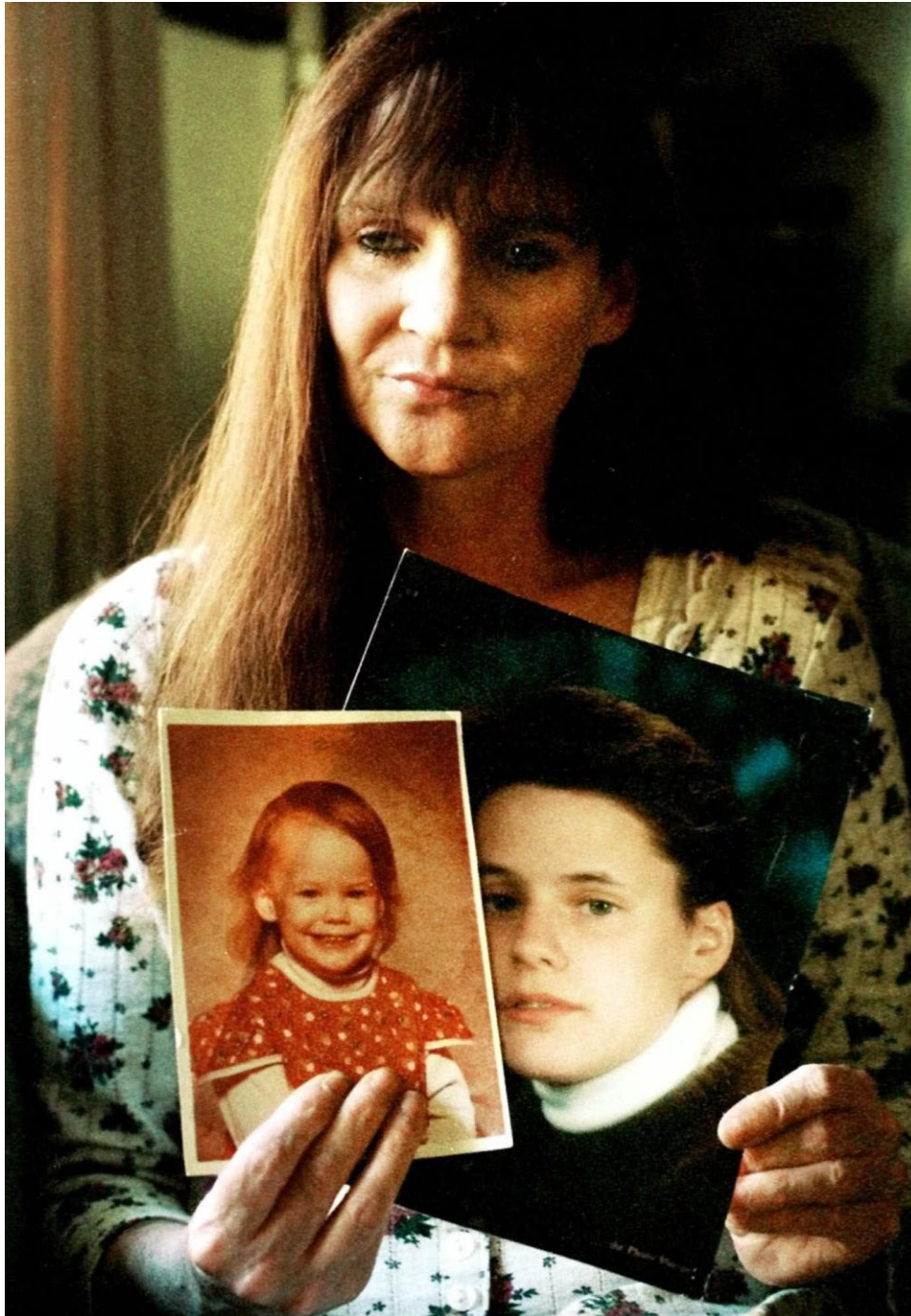


Jamie Nabozny in the halls of his high school where he was constantly harassed and abused for being gay. Credit Taro Yamasaki/The LIFE Images Collection, via Getty Images

1996: Nabozny v. Podlesny – United States Court of Appeals for the Seventh Circuit

Jamie Nabozny faced years of abuse and harassment in Wisconsin schools because he was gay. After suing, a federal appeals court held that discrimination based on sexual orientation could violate the 14th Amendment’s equal protection clause — allowing his case to proceed.

Anti-transgender violence



JoAnn Brandon, in her Lincoln, Neb., home in 2000, holds portraits of her transgender son, Brandon Teena, who was raped and murdered in 1993. Credit Lane Hickenbottom/Lincoln Journal Star, via Associated Press

1997: Brandon v. Richardson County – Nebraska Supreme Court

The police in Nebraska failed to protect Brandon Teena, a transgender man, when he agreed to be a witness in the case against his rapists — leading to his murder. His family sued, and courts ultimately allowed a lawsuit against the police for their “atrocious” conduct.

The Defense of Marriage Act

1993: Baehr v. Lewin – Hawaii Supreme Court

When Ninia Baehr and Genora Dancel sued for the right to marry, the Hawaii Supreme Court ruled that the state's ban on sex discrimination meant that refusing to let same-sex couples marry was likely unconstitutional. Although the ruling sent the case back to a trial court to decide the matter and voters later amended the state's constitution to allow the Legislature to ban marriage between same-sex couples, the federal fallout included the 1996 passage of the Defense of Marriage Act.

'Don't ask, don't tell'

1998: Able v. United States – United States Court of Appeals for the Second Circuit

After a trial court judge struck down the military's "don't ask, don't tell" policy, a federal appeals court reversed the decision, upholding the ban in part because of the "special respect" courts give to military decisions.

H.I.V. and the Americans with Disabilities Act



Sidney Abbott, the subject of a United States Supreme Court ruling, appears at a news conference on June 25, 1998, in Boston. Credit Associated Press

1998: Bragdon v. Abbott – United States Supreme Court / **1998:** United States Court of Appeals for the First Circuit

When a dentist refused to treat Sidney Abbott, who was H.I.V.-positive, at his office, she sued under the Americans with Disabilities Act. The Supreme Court ruled that the A.D.A. protected Ms. Abbott against discrimination and sent the case back to the appeals court, which then ruled further in her favor — holding that treating her did not pose a “direct threat” to the dentist.

Civil unions



Peter Harrigan, left, and his partner Stan Baker attend a news conference in South Burlington, Vt., on Dec. 20, 1999. Credit: Toby Talbot/Associated Press

1999: Baker v. State – Vermont Supreme Court

The Vermont Supreme Court declared that the state’s marriage laws were discriminatory and violated the Vermont Constitution but left it up to the Legislature to decide how to address the discrimination — a decision that led to civil unions.

The Boy Scouts



James Dale, center, who was expelled from the Boy Scouts in 1990, leaves a news conference after the New Jersey Supreme Court struck down the Scouts' ban on gay members. Credit: Ozier Muhammad/The New York Times

2000: Boy Scouts of America v. Dale – United States Supreme Court

The Supreme Court ruled that New Jersey could not enforce its nondiscrimination laws to force the Boy Scouts to allow gay scoutmasters in the state — reversing a lower-court decision that had ruled in favor of allowing James Dale to serve as an assistant scoutmaster.

The end of sodomy laws



Tyron Garner, left, and John Geddes Lawrence, right, are hugged by a well-wisher after a rally at Houston City Hall on June 26, 2003, held to celebrate the Supreme Court ruling striking down a Texas law criminalizing sodomy. Credit Erich Schlegel/The Dallas Morning News, via Associated Press

2003: Lawrence v. Texas – United States Supreme Court

The Supreme Court ended sodomy laws nationwide, reversing the 1986 ruling in a decision by Justice Kennedy that declared, “Bowers was not correct when it was decided, and it is not correct today.”

The first successful marriage cases

A handful of state supreme courts ruled in favor of same-sex couples’ marriage rights in the 2000s, relying, as Vermont had, on provisions in their states’ constitutions.

2003: Goodridge v. Department of Health – Massachusetts Supreme Judicial Court

Seven same-sex couples sued Massachusetts for the right to marry, and the state’s high court ruled in their favor in a November 2003 decision. Although there were attempts to amend the state’s constitution before the ruling went into effect, those efforts failed and the first same-sex couples legally married in the United States on May 17, 2004.

2008: In re Marriage Cases – California Supreme Court

The California Supreme Court ruled in favor of same-sex couples' marriage rights, but the window for legal marriages was brief — as voters later that year approved Proposition 8, which amended the state's Constitution to bar same-sex couples from marrying.

2008: Kerrigan v. Commissioner of Public Health – Connecticut Supreme Court

The Connecticut Supreme Court followed, making Connecticut the second state that allowed same-sex couples to marry.

2009: Varnum v. Brien – Iowa Supreme Court

The Iowa Supreme Court made history when it issued the first unanimous decision affirming the right of same-sex couples to marry — a decision that also led to Iowa becoming the first state in the Midwest where same-sex couples could marry.

Adoption



Frank Martin Gill plays with his six-year-old foster son on Sept. 22, 2010, in Miami. Credit Joe Raedle/Getty Images

2010: In re Gill – Florida Third District Court of Appeal

For decades, Florida law categorically barred gay people from adopting children. The ban ended only after the state's Third District Court of Appeal ruled in 2010 that there was “no rational basis” for the law.

Anti-transgender employment discrimination

A federal appeals court and a key federal agency ruled that discrimination against transgender people could be illegal under existing sex discrimination bans found in the 14th Amendment's equal protection clause and under federal law.

2011: Glenn v. Brumby – United States Court of Appeals for the 11th Circuit

Vandy Beth Glenn was fired from her job with the Georgia General Assembly after she told her employer that she was transgender and would be transitioning. A federal appeals court ruled that her firing was unconstitutional sex discrimination.

2012: Macy v. Holder – Equal Employment Opportunity Commission

The commission ruled in Mia Macy's complaint that anti-transgender discrimination is a type of sex discrimination and therefore illegal under Title VII of the Civil Rights Act of 1964 — a decision that set a standard for the agency across the country and in other litigation.

The end of the Defense of Marriage Act



Edith Windsor at the New York Gay Pride Parade in 2013. Credit James Estrin/The New York Times

As same-sex couples began legally marrying, it soon became clear that the Defense of Marriage Act's federal ban on recognizing those marriages would face legal challenges.

2010: Gill v. OPM – United States District Court for the District of Massachusetts

The first successful challenge to the act came out of the first state where same-sex couples could marry, as couples were joined by the state in challenging the constitutionality of the federal ban.

2013: United States v. Windsor – United States Supreme Court

With the case of Edith Windsor, the Supreme Court, in another decision authored by Justice Kennedy, agreed with the lower courts that the ban on federal recognition of same-sex couples was unconstitutional.

California's Proposition 8

2010: Hollingsworth v. Perry – United States District Court for the Northern District of California / **2013:** United States Supreme Court

Months after California voters approved Proposition 8 in 2008, a lawsuit was filed challenging the ban on the grounds that it violated the Constitution, a change from earlier marriage litigation in the 2000s that focused on state constitutions. The measure ultimately was declared unconstitutional, although the Supreme Court did not resolve the question of whether all similar bans were unconstitutional.

Marriage equality



Jim Obergefell, left, and John Arthur, who was terminally ill from A.L.S., were married on July 11, 2013 in Baltimore-Washington International Thurgood Marshall Airport in Glen Burnie, Md. Credit Glenn Hartong/The Cincinnati Enquirer, via Associated Press

The Windsor decision almost immediately led to challenges to state marriage bans across the nation. Most judges found the bans to be unconstitutional and, two years after the ruling on the Defense of Marriage Act, the Supreme Court declared marriage equality to be the law of the nation.

2013: Kitchen v. Herbert – United States District Court for the District of Utah

When Judge Robert Shelby struck down Utah's marriage ban in December 2013, he did not put the ruling on hold while the state appealed — leading to same-sex couples marrying in Utah until the United States Supreme Court halted them during appeals a few weeks later.

2013: Obergefell v. Hodges – United States District Court for the Southern District of Ohio / **2015:** United States Supreme Court

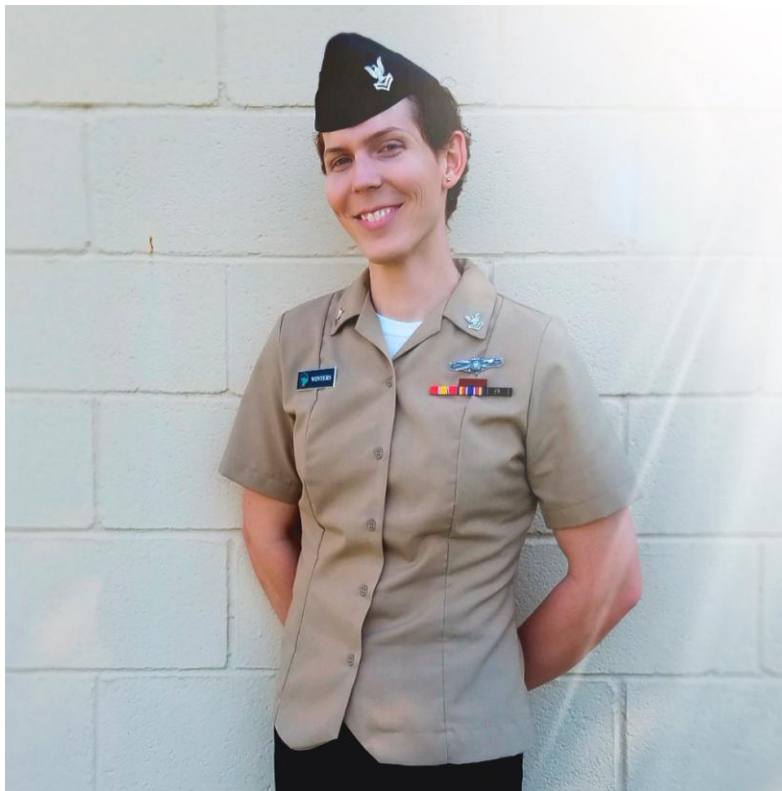
Shortly after the Windsor decision, Jim Obergefell and John Arthur married in Maryland. Arthur was receiving hospice care, having received a diagnosis of A.L.S., or Lou Gehrig’s disease, two years earlier, so the couple sued to ensure their marriage would be recognized in Ohio. After Mr. Arthur died, the case continued all the way to the Supreme Court — a fight that ultimately resulted in all marriage bans nationwide being struck down on June 26, 2015.

Religious liberty and nondiscrimination laws

2018: Masterpiece Cakeshop v. Colorado Civil Rights Commission – United States Supreme Court

The Supreme Court ruled that showing “hostility” to religious people in applying nondiscrimination laws violates the First Amendment’s free exercise clause, but it left unresolved the larger question about whether and when religious people could refuse to serve same-sex couples.

Transgender military service ban



Active-duty service member Megan Winters, 30, was a plaintiff in the Lambda-Outserve lawsuit challenging the military transgender ban. Credit Lambda Legal, via Associated Press

2018: Karnoski v. Trump – United States District Court for the Western District of Washington

When President Trump posted a decision on Twitter to ban transgender people from serving in the military and later issued an attempt to do so, courts across the country found the move likely to be unconstitutional and ordered that it not be allowed to go into effect.

2019: Doe v. Trump – United States Court of Appeals for the District of Columbia Circuit /
2019: United States Supreme Court

After the initial wave of rulings against the Trump administration, the Pentagon revised and narrowed the ban slightly. A federal appeals court in Washington sided with the administration on that revised version and the Supreme Court let the ban go into effect.

Title VII sexual orientation and gender identity coverage

The Supreme Court is due to consider in its next term whether discrimination on the basis of sexual orientation and gender identity are types of sex discrimination made illegal under Title VII of the Civil Rights Act of 1964.

Bostock v. Clayton County, Ga. – Supreme Court (pending)

Altitude Express v. Zarda – Supreme Court (pending)

In the Bostock case out of Georgia and the Zarda case out of New York, the question to be resolved by the justices is whether discrimination based on sexual orientation violates the ban on sex discrimination found in Title VII.

R.G. & G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission – Supreme Court (pending)

In the funeral home case, the commission sued — under the principle established in Mia Macy’s case — because a transgender employee faced discrimination. The funeral home is asking the Supreme Court to rule that the commission is wrong that discrimination based on gender identity violates the ban on sex discrimination found in Title VII.

Correction: June 20, 2019

An earlier version of this article misstated the year of a ruling by the Connecticut Supreme Court. It is 2008, not 2006. Also, because of an editing error, the article misstated the name of a government agency in a subsequent reference. It is the Equal Employment Opportunity Commission, not the Equal Opportunity Employment Commission.

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