

Supreme Court rules LGBTQ workers protected from discrimination by federal law

[Alex Biese](#), [Asbury Park Press](#) Published 10:18 a.m. ET June 15, 2020 | Updated 12:40 p.m. ET June 15, 2020

The Supreme Court's decision on whether federal law shields LGBT people from job discrimination could leave millions of gay and transgender workers vulnerable in parts of the U.S. without protections at the state or local level. (Oct 14) AP Domestic

CONNECTTWEETLINKEDINCOMMENTEMAILMORE

LGBTQ people across the country [are protected from employment discrimination under federal law, the United States Supreme Court ruled on Monday.](#)

The 6-3 decision by the court came down to the justices' opinion that Title VII of the Civil Rights Act of 1964's outlawing of employment discrimination based on sex applied to sexual orientation and gender identity.

"An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids," Justice Neil Gorsuch wrote for the court.



Demonstrators gathered in front of the Supreme Court in October as the justices heard challenges involving workers who claimed they were fired for being gay or transgender. (Photo: Jack Gruber, Jack Gruber-USA TODAY NETWORK vi)

“During a global pandemic and the important dialogue taking place against systematic racism in communities around the world, the U.S. Supreme Court ruling that companies don’t have a right to discriminate against LGBTQ people in the workplace is a moment of hope and encouragement,” said Christian Fuscarino, executive director of Asbury Park-based advocacy organization Garden State Equality.

[New Jersey's Law Against Discrimination](#) prohibits employment discrimination based on affectional or sexual orientation, sex and gender identity or expression.

Laura Pople, president of Jersey Pride, was part of the 1992 movement to have New Jersey's LAD amended to include sexual orientation. The law was further amended to include gender identity in 2006.

Monday's ruling, Pople said, "took my breath away, the same way when we got the LAD amended to include sexual orientation took my breath away. It was the right thing to do, and it moves us so far forward.

"Obviously it hasn't solved all of the issues that affect the LGBTQ community but it's a necessary step in so many states. And with a backdrop of so much hate coming from the current federal administration, it is essential that we see this kind of progress, especially from the Supreme Court."



New Jersey and New York are among the 22 states, plus Washington, D.C., to prohibit discrimination based on sexual orientation and gender identity, [according to the Human Rights Campaign](#).

"Because of the whatever you want to call it — the enlightenment, foresight, whatever — of 20-plus states to enact specific, explicit protections at the state level based on gender identity and sexual orientation, it basically meant that New Jersey residents' concern for this issue was based on their level of sympathy for people in other states that weren't so fortunate," said Gregory R. Nevins, senior counsel and Employment Fairness Project director for [Lambda Legal, a national nonprofit organization working for the civil rights of the LGBT community and those living with HIV](#).

"The New Jersey law against discrimination isn't going anywhere," Nevins told the Asbury Park Press last week. "So their support for this issue is really based on [they think it's the right thing and the fair thing and it should be a nationwide rule](#), but it's not because of their self-interest because honestly, they'll be fine."

Wisconsin prohibits discrimination based on sexual orientation. Pennsylvania is one of six states to prohibit discrimination against public employees based on sexual orientation and public identity, and an additional four states only protect public employees from discrimination based on sexual orientation.

When the U.S. Supreme Court heard oral arguments for the three cases in question — [Altitude Express v. Zarda](#), [Bostock v. Clayton County](#) and [R.G. and G.R. Harris Funeral Homes v. EEOC](#) — in October 2019, [USA TODAY reported that 52% of America's LGBTQ population](#) lived in states where their employment rights were not protected by state law. Since then, Virginia became the 22nd state offer such protections thanks to [the April passage of the Virginia Values Act](#).

Twenty-eight states have little or no workplace protections for the LGBT community. About 4.5% of the U.S. population, or roughly 11 million people, identify as lesbian, gay, bisexual, transgender or queer; 88% of them are employed, [USA TODAY reported](#) on Monday.

The coronavirus pandemic has resulted in [job losses and economic uncertainty across the country, including in the LGBTQ community](#). Monday's ruling can be potentially heartening news for folks hoping to re-enter the workforce.

"(The ruling) is really a good thing because the environment is up in the air right now," said Seth Rainess, an author, activist and transgender life coach who serves as a facilitator for PFLAG Jersey Shore. "Hopefully this will help, especially coming off this

pandemic, that people will feel free to go out and look for employment and know that they're backed by this ruling."

The court's decision came less than a week after [President Donald Trump's administration finalized a rule overturning Obama-era protections for transgender people against discrimination in health care.](#)

"I think we see often the need for, especially now, the checks and balances that are in place with our three branches of government," said Pople. "This is just a very clear example of why that's essential, and how important the Supreme Court justices are, how important the judicial system is. I think we're becoming very aware of that."



Demonstrators gather in front of the Supreme Court on Oct. 8 as the justices hear three challenges from New York, Michigan and Georgia involving workers who claimed they were fired because they were gay or transgender. (Photo: Jack Gruber/USA TODAY NETWORK)

Monday's decision was written by Associate Justice Neil Gorsuch, Trump's first nominee to the court. He was joined by Chief Justice John Roberts and the court's four liberal justices. Associate Justices Samuel Alito, Clarence Thomas and Brett Kavanaugh dissented.

"I think that they ruled more legally than politically, which is fantastic in this day and age," said Rainess.

The three plaintiffs were Gerald Bostock, a former child welfare services coordinator from Georgia; Donald Zarda, a former New York skydiving instructor who died at 44 in

2014 but was represented by his sister and former partner; and Aimee Stephens, a former funeral home worker from Michigan who is transgender, and who died March 12.



Protestors and supporters gather in front of the U.S. Supreme Court on Oct. 8, 2019 in Washington as the justices hear three challenges from New York, Michigan and Georgia involving workers who claim they were fired because they were gay or transgender. (Photo: Jack Gruber, USA TODAY)

Monday's ruling made for another chapter in what Pople described as 2020's "oddly tumultuous" LGBTQ Pride Month.

Pride is historically observed throughout June in commemoration of the June 28, 1969, Stonewall uprising, when a riot broke out at the Stonewall Inn in Manhattan's Greenwich Village. Police had raided the bar, enforcing a law against selling alcohol to homosexual patrons, and the community — [including Edison native transgender rights activist Marsha P. Johnson](#) — fought back.

This year's Pride month [has seen many rallies, parades and festivals either moved online or postponed](#) due to COVID-19. The New Jersey LGBTQ Pride Parade, Rally and Festival, an Asbury Park fixture since 1992, [was moved by event organizers Jersey Pride, Inc. from June 7 to National Coming Out Day, Sunday, Oct. 11](#). An online celebration took place on the gathering's original date.

Simultaneously, [June has seen protests and marches around the world in opposition to police brutality and racism following the death of George Floyd, a Black Minneapolis man, at the hands of police officers on May 25](#).

"There's this much larger protest movement going on, that we recognize the relationship or the similarity to the original Stonewall riots, and it really is rekindling that sense of Stonewall," said Pople. "Stonewall was a riot. You're seeing riots and protesting happening now, and so how Pride Month is being played out is very different this year."



10/8/19 1:19:41 PM -- -- Acts of civil disobedience blocking streets brings arrests as protestors and supporters gather in front of the U.S. Supreme Court on Oct. 8, 2019 in Washington as the justices hear three challenges from New York, Michigan and Georgia involving workers who claim they were fired because they were gay or transgender. -- Photo by Jack Gruber, USA TODAY Staff ORG XMIT: JG 138297 SCOTUS_LGBTQ 10/8/201 [Via MerlinFTP Drop] (Photo: Jack Gruber, USAT)

Gordon Sauer, president of Morristown-based Gay Activist Alliance in Morris County, or GAAMC, as well as an affiliate leader for the Jersey City chapter of SAGE, and a professional development coordinator for the Central New Jersey chapter of GLSEN, said he was "relieved and heartened" by Monday morning's news.

"The Supreme Court has made a decision that is the right one for the millions of LGBT people in this country," said Sauer.

But other protections are still needed in areas such as housing, Sauer said.

"People can discriminate in housing on the basis of one being LGBT, and that would be something that I think definitely needs to be remedied," he said.

To that end, Lambda Legal is calling on the U.S. Senate to take action on [the Equality Act, passed by the House of Representatives in May 2019](#).

The Equality Act, Lambda Legal explains, updates current federal non-discrimination laws such as the Fair Housing Act, Title IX and provisions of the Affordable Care Act, to make discrimination based on sexual orientation or gender identity unlawful, and would protect against discrimination based on sex, sexual orientation or gender identity in public accommodations or federally-funded programs.

"It's awaiting Senate action, which nobody's expecting this Congress," said Nevis. "But there will be another Congress that convenes in January with a possibly different composition, a more equality-focused one, so hope springs eternal."

USA TODAY contributed to this report.