

**JONATHAN GREGG,  
JAMES DEREK MIZE &  
SIMONE MIZE-GREGG**

If they were a different-sex couple, the U.S. State Department would recognize daughter Simone, born abroad, as a citizen. But it doesn't, and the Mize-Greggs fear her deportation. Lambda Legal is suing.



Jonathan Kelso

## 2019 IN REVIEW

# FREEDOM, INTERRUPTED

**W**here were you on **June 26, 2015**—the day the Supreme Court decided, in a moment many LGBTQ people and allies never dreamed we'd see in our lifetimes, that same-sex relationships were equal in the eyes of the law with different-sex relationships, and therefore worthy of all the rights and responsibilities of marriage?

We at Lambda Legal rejoiced—on the steps of the Supreme Court and throughout the country. We had done so much to lay the groundwork that made that moment possible.

Marriage was just one part—an important part, to be sure—of our work to make sure that every every lesbian, gay, bisexual, transgender, nonbinary, questioning or intersex person and everyone living with

HIV is treated as a full human being, and that so many people who have an impact on our lives—bosses, coworkers, teachers, classmates, health care professionals, business owners, judges, law enforcement—have an obligation to treat and respect us as such.

Doesn't 2015 seem a lifetime ago?

Our opponents have been mobilizing. They're using every opening they can find to dismantle our legal protections and invite people, under the guise of "religious freedom," to attack us, especially the most vulnerable among us—children, seniors, transgender people, people living with HIV.

## HERE'S WHAT OUR OPPONENTS DID IN 2019 ALONE:

**JANUARY 23:** The Department of Health and Human Services (HHS) granted South Carolina a waiver permitting taxpayer-funded foster care agencies to reject prospective parents who do not align with their religious beliefs, including same-sex couples.

**APRIL 12:** Implementation of President Trump's trans military ban began, while our legal challenge proceeds in court.



**NYLA FOSTER** could not change her Kansas birth certificate—until Lambda Legal sued the state and won that right statewide.

## HERE'S WHAT OUR OPPONENTS DID IN 2019 ALONE (CONTINUED)

**APRIL 25:** The Tennessee House passed a bill that would allow government-funded child welfare agencies to turn away same-sex couples seeking to foster or adopt. The bill is poised for a Senate vote in January.

**MAY 24:** HHS announced its plan to roll back the explicit nondiscrimination protections for transgender patients enacted by the Obama administration under the Affordable Care Act (ACA).

**JUNE 17:** The Oregon Court of Appeals had earlier found that the bakery Sweetcakes by Melissa, in refusing to serve a same-sex couple, had violated the state's nondiscrimination statutes. SCOTUS ordered the Court to re-examine its decision.

**AUGUST 14:** The U.S. Department of Labor announced a proposed new rule, which would expand the ability of employers receiving federal contracts to use "religious freedom" to avoid nondiscrimination requirements.

**NOVEMBER 1:** The Trump administration lived up to its Prayer Breakfast promise to permit discrimination in the foster care systems, proposing a new rule gutting sexual orientation and gender identity protections in HHS-funded programs, including children and families in the child welfare system.

## WE'RE GOING TO NEED SOME GOOD LAWYERS

**To make matters worse,** the Senate has rubber-stamped virtually all of Donald Trump's nominees for lifetime appointments to the federal bench. Many of them have records reflecting deep hostility to the notion that LGBT people are entitled to equal justice under law. These have included:



**Allison Rushing,** who was confirmed to the U.S. Court of Appeals for 4th Circuit (Maryland, North Carolina, South Carolina, Virginia, West Virginia), despite denouncing the Supreme Court's decision in *Windsor* and her commitment to the Alliance Defending Freedom's mission to recriminalize homosexuality and sterilize the transgender community.



**Chad Readler,** who was confirmed to the U.S. Court of Appeals or the 6th Circuit (Kentucky, Michigan, Ohio, Tennessee) despite leading the Justice Department's efforts to allow businesses to turn away LGBTQ customers and to ban transgender service members from the military.



**Matthew Kacsmaryk,** who was confirmed to the U.S. District Court for the Northern District of Texas. He has claimed being transgender is a "delusion," suggested the LGBTQ rights movement is "typified by lawlessness," and called for a "long war" against nondiscrimination protections for LGBTQ people.

All year long, Lambda Legal has been researching these nominees and, along with our social justice partners, has sounded the alarm about the damage being done to our federal judiciary, and the threat that this poses to LGBTQ rights and to civil rights more broadly. **We continue to fight back against the most extreme nominees, and to raise awareness about the need for judges that will treat LGBTQ people and people with HIV with fairness and dignity.**

# WHAT LAMBDA LEGAL DID IN 2019

On multiple fronts, Lambda Legal routed attempts to denigrate and dehumanize LGBTQ people and people living with HIV.

## “Religious freedom” as a license to discriminate against LGBT people

- We sued HHS to block their new Denial of Care rule, which invites anyone even tangentially related to providing health care to refuse medically-necessary, life-saving care they find objectionable, even in cases of emergency.
- We persuaded a federal district court to deny motions by HHS and the Conference of Catholic Bishops to dismiss our case on behalf of a same-sex couple in Texas denied even the opportunity to apply to be foster parents through a federally funded program because they do not “mirror the holy family.”
- We sued HHS and the state of South Carolina on behalf of Eden Rogers and Brandy Welch, who were rejected as prospective foster parents by a tax-payer funded, faith-based child placement agency.

## “Religious freedom” as an excuse to deny service to same-sex couples

- We persuaded the U.S. Supreme Court to let stand our court victory on behalf of Diane Cervelli and Taeko Bufford, who were turned away by Hawai'i's Aloha Bed & Breakfast based on the owner's religious beliefs that same-sex relationships are “detestable” and “defile our land.”
- We reached a \$25,000 settlement for two men, Thomas Hurd and Dillan Toften, denied a marriage license in upstate New York by a town clerk, Laurel “Sherrie” Eriksen, who objected to their marriage on religious grounds.
- We urged the Oregon Court of Appeals to reaffirm its 2017 ruling that the owners of the bakery Sweetcakes by Melissa, Aaron and Melissa Klein, violated state nondiscrimination law when they refused to serve our clients, Rachel and Laurel Bowman-Cryer, citing the Leviticus passage calling same-sex relationships an “abomination.”

## The denial of survivors benefits to same-sex spouses and partners

- We are challenging the Social Security Administration's (SSA) categorical denial of survivor's benefits to same-sex couples who were unable to be married for nine months, which SSA requires for benefits, because of prior discriminatory marriage laws. We are urging federal courts to grant relief in two class actions on behalf of same-sex spouses and partners.

- We also continue to represent individual plaintiffs, such as Frederick Colosimo, a 75-year-old widower in North Carolina who was denied survivor's benefits. This was the fourth lawsuit for Lambda since September 2018 challenging denials due to discriminatory marriage laws prior to *Obergefell*.

## The denial of equal treatment and accurate information to youth in schools

- We argued in the U.S. Court of Appeals for the 11th circuit (Alabama, Florida, Georgia) to affirm a lower court ruling in favor of Drew Adams, a transgender student who was wrongfully denied access to the boys' restrooms at his high school.
- We sought permission from a federal court to join and defend school antidiscrimination policies from attack by an Indiana teacher claiming a religious objection to using the correct names and pronouns of transgender students in his classroom.
- We and the National Center for Lesbian Rights sued Arizona over its anti-LGBTQ curriculum law that barred portraying LGBT people in a positive light, which resulted in its repeal.



**DREW ADAMS**  
School officials tried to bar this honor student from the boys room. Lambda Legal got a federal court to show them the error of their ways.

# THE OPPOSITION IS GETTING INTENSE WE NEED YOUR REINFORCEMENT

This holiday season, consider making a gift to support the fight to protect the dignity of LGBTQ people and everyone living with HIV.

As we welcome our new CEO Kevin Jennings, Lambda Legal's Board of Directors and Board Alumni are personally matching new and increased support through the end of 2019, up to \$500,000.

By doubling the impact of a qualifying gift before December 31st, you help provide a potential, urgently needed infusion of \$1 million to fuel our fight for the dignity of LGBTQ people and everyone living with HIV.

# WE'RE HERE

## LAMBDA LEGAL BOARD CHALLENGE

**\$500,000** in new & increased donations  
**+ \$500,000** matched by Board & Board Alumni

**\$1 million** for equality

**Don't let the bad guys win.** Visit [lambdalegal.org/BoardChallenge19](http://lambdalegal.org/BoardChallenge19).

## WHAT LAMBDA LEGAL DID IN 2019 (CONTINUED)

### Discrimination against employees and applicants based on sexual orientation, gender identity and HIV status

- We filed amicus briefs before the U.S. Supreme Court urging the court to recognize that the sex discrimination provisions in Title VII of the Civil Rights Act of 1964 encompass discrimination based on sexual orientation or transgender status. We also led the coordination of an amicus brief on behalf of 206 major corporations urging the Supreme Court to uphold these protections.
- We convinced a federal judge to order the Trump administration to halt discharges against members of the Air Force simply because they have HIV.
- We negotiated an \$850,000 settlement for Julia Frost, a teacher and GSA advisor in Hesperia, California. Her employment was terminated, and her career effectively ended, because she is a lesbian and had provided guidance and support to LGBTQ students protesting bias and bullying at her school.

### Denying the humanity and existence of LGBTQI people

- We sued the state of North Carolina for refusing to cover gender-confirming health care for state employees.
- We got Kansas to agree to a consent judgment declaring as unconstitutional their policy barring

transgender people born in Kansas from correcting birth certificates so that they accurately reflect their gender.

- We sued the state of Tennessee over its birth certificate policy prohibiting transgender people from obtaining accurate birth certificates consistent with their gender identity (Tennessee and Ohio are the only states which still have these archaic and discriminatory policies.)
- We won a key victory from the federal appeals court in our trans military ban challenge, which will help us fight any form of government discrimination against transgender people
- We reached a partial settlement in the case of North Carolina's infamous HB2 law, and its replacement law, HB142. The state cannot implement its attempt to block transgender people from public restrooms.
- We sued the U.S. State Department in two cases in Georgia and Maryland for refusing to recognize the citizenship-at-birth of the children of married U.S. citizen same-sex couples born abroad thru surrogacy.
- We continue to defend our historic district court victory at the 10th Circuit on behalf of Dana Zzyym, a nonbinary intersex citizen seeking an accurate gender-neutral sex marker on their passport. **LL**

Learn more. Support the fight. Visit [LambdaLegal.org](http://LambdaLegal.org)