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Federal Protections Still Needed for Members of the LGBT Community

The Supreme Court now has the opportunity to affirm that all LGBT people should be able to work hard and support themselves and our loved ones without fear of humiliation, harassment or discrimination at work.

By **Elizabeth F. Schwartz** | December 06, 2019



In just a few short months, the U.S. Supreme Court will issue rulings on three cases involving LGBT (lesbian, gay, bisexual, transgender) people who were fired from their jobs. We're a community on pins and needles, tapped out from the marriage equality struggle and now having to gear up to fight hard, new battles for our basic dignity.

The Supreme Court now has the opportunity to affirm that all LGBT people should be able to work hard and support themselves and our loved ones without fear of humiliation, harassment or discrimination at work. The law is on our side. Many federal courts and agencies have long held that firing someone simply for being LGBT is unlawful sex discrimination under Title VII of the Civil Rights Act.

These three Supreme Court cases are just as significant as cases that moved the freedom to marry forward. The cases will determine whether LGBT people are protected under federal nondiscrimination law, or whether employers will have a right to discriminate. If the court rules that LGBT people are not protected by existing federal workplace protections, anti-LGBT opponents will rapidly use the same legal reasoning to attempt to overturn critical federal protections in housing, health care, credit, education and more. In short, LGBT people could soon find themselves living in a nation where federal law says it is legal for them to be denied a job, fired, discriminated against at school, denied a loan, rejected by a doctor, and evicted from an apartment, simply because of who they are and who they love.

I have been practicing law since 1997, with a focus, from the start, on providing crucial legal protections for LGBT individuals and families. I've witnessed first-hand how members of my community continue to face discrimination in many areas of their lives, especially in crucial areas such as housing, employment and public accommodations. Yes, endless grievous injustices still occur, and they continue to chip away at members of the LGBT community, who are still battling for the equality, dignity and privacy rights to which all citizens are entitled.

Among the most at risk is the aging population. It's a group largely forgotten, facing isolation, which often leads to cognitive decline, depression and mortality. Many LGBT older people continue to report experiences of discrimination within residential communities, when seeking housing, and when accessing social supports like community centers. As a large concentration of the aging LGBT population continues to call South Florida home, our community is in danger of facing legal discrimination throughout all aspects of daily life, putting American values of fairness and equality at stake.

As a lawyer who worked on overturning our statewide ban against marriage equality, I'm painfully aware that the fight for full equality must often be waged at both the federal and state levels. Florida is one of 30 states that does not currently have comprehensive LGBT nondiscrimination protections. We could lead the way by passing a state law that protects LGBT people from discrimination in employment, housing and public spaces here at home.

While we push for such statewide legislation, federal protections are all the more essential as folks living in these 30 states are often left without any remedy for discrimination. Nearly two-thirds of LGBT people report having experienced discrimination in their everyday lives. LGBT people of color and transgender people face even higher rates of discrimination. (<https://www.sageusa.org/news-posts/sage-calls-on-supreme-court-to-vindicate-lgbt-rights-and-prevent-lifetimes-of-discrimination/>) If the Supreme Court rules against LGBT people, it will give the federal administration, anti-LGBT groups and people in power a license to take even more dangerous actions against this community, including denying health care or kicking people out of their homes on the basis of their sexual orientation or gender identity.

A loss in these cases would reverse decades of progress and shock the American public, 70% of which support nondiscrimination protections for LGBT people. The Supreme Court must make the right decision here and affirm that all LGBT people have the right to work hard and live their lives free of harassment and discrimination in the workplace.

Yet, no matter how the Supreme Court rules, our work will not be done. Federal law doesn't currently prohibit sex discrimination (and therefore not yet sexual orientation or gender identity discrimination) in other critical areas beyond the workplace, including public places like restaurants, store, hotels, or in federally-funded programs. That's why Congress must pass the pending bill—the Equality Act—that ensures express and enduring protections for the LGBT community, in all areas of life.

We must all urge our elected officials to support these urgent federal and state protections, because dignity and respect should never depend on someone's zip code, who they are, or who they love.

Elizabeth F. Schwartz *has been practicing law since 1997 and is a native of Miami. She worked on litigation challenging Florida's bans against LGBTQ people marrying and adopting, and is board certified by the Florida Bar in adoption law. She is the author of "Before I Do: A Legal Guide to Marriage, Gay & Otherwise" (The New Press, 2016).*