

# THREATS TO LGBTQ RIGHTS

The Trump Administration is selecting judicial nominees with backgrounds of hostility to LGBTQ communities. These nominees include attorneys and state judges who have fought vigorously in their personal and professional lives to restrict the rights of LGBTQ people.

## MARRIAGE EQUALITY

**Howard Nielson** (District of Utah) fought against equality for LGBTQ people and argued that a judge should be recused from a case because he is gay. He represented the defendants in *Hollingsworth v. Perry*, defending Proposition 8, which would have banned same-sex marriage in California. After the district court ruled that Proposition 8 was unconstitutional, Nielson filed a motion to vacate the judgment, arguing that the judge, Chief Judge Vaughn Walker, a Reagan appointee, “had a duty to disclose not only the facts concerning his [same sex] relationship, but also his marriage intentions.”

**Mark Norris** (Western District of Tennessee) supported state legislation that became known as the “LGBTQ Erasure bill” for its goal to undermine the Supreme Court’s decision in *Obergefell v. Hodges* in Tennessee.

**L. Steven Gras** (Eighth Circuit) spent years fighting against same-sex marriage as Deputy Attorney General of Nebraska. He vigorously opposed the granting of equal benefits to same-sex married couples, supported the Defense of Marriage Act, and successfully kept a lesbian couple from adopting a child.

**Gregory Katsas** (D.C. Circuit) spent his early career at the Department of Justice fighting to uphold the Defense of Marriage Act.

## LGBTQ DISCRIMINATION

**Damien Schiff** (Court of Federal Claims) opposed the landmark case *Lawrence v. Texas*, claiming that states should be able to criminalize “consensual sodomy.”

**Matthew Kacsmayk** (Northern District of Texas) fought equal rights for LGBTQ people on numerous occasions, including supporting the Mississippi state government’s attempt to allow businesses and government workers to discriminate based on sexual orientation and gender identity.

**L. Steven Gras** (Eighth Circuit) served as a director of the Nebraska Family Alliance, which has defended conversion therapy, claimed that only opposite-sex couples provide the optimal parental environment, and opposed legislation to prohibit LGBTQ discrimination in the workplace.

**Mark Norris** (Western District of Tennessee) supported legislation that prohibited cities from protecting gay and lesbian Tennesseans from being discriminated against based on their sexual orientation. He also disputed the effects of discrimination on LGBTQ individuals, such as increased rates of depression and attempted suicide.

## LGBTQ RIGHTS

**Damien Schiff** (Court of Federal Claims) criticized efforts to prevent bullying of LGBTQ students, referring to the efforts as “[t]eaching ‘gayness’ in public schools.”

**Kyle Duncan** (Fifth Circuit) has repeatedly attacked the rights of same-sex couples attempting to adopt children.

**Don Willett** (Fifth Circuit) has consistently ruled against equal rights for married LGBTQ couples. Most recently, in June 2017, Willett joined the majority in *Pidgeon v. Turner*, which held that same-sex spouses of city workers in Houston have no inherent right to benefits under the Supreme Court’s ruling in *Obergefell v. Hodges*.

**Matthew Kacsmayk** (Northern District of Texas) vigorously opposed regulations under the Affordable Care Act that forbid healthcare providers from discriminating against people based on gender identity, “sex stereotyping,” and “termination of pregnancy.”

## SEXUAL HARASSMENT

**Kurt Engelhardt** (Fifth Circuit) rejected a same-sex workplace harassment claim based on his apparent skepticism that the victim’s gender was a factor, although the harasser repeatedly grabbed the co-worker in the crotch, made sexual remarks that clearly referenced the victim’s gender — including that he “would like to compare packages,” — and used vulgar language to describe sex acts he would like to do.

**Judge Amul Thapar** (Sixth Circuit) rejected a same-sex sexual harassment and retaliation claim because he believed the worker didn’t show he was harassed because of his gender, despite his harasser groping him and making repeated sexual comments that referenced his gender, including: “boy you have pretty lips,” as well as “you’ve got a pretty mouth,” and “you know you like it sweetheart.”

## TRANSGENDER RIGHTS

**Matthew Kacsmayk** (Northern District of Texas) questioned the legality of state bans on “conversion therapy.”

**Jeff Mateer** (Eastern District of Texas) repeatedly made offensive comments toward transgender people, including the claim that transgender children are part of “Satan’s plan.”

**Kyle Duncan** (Fifth Circuit) fought to keep transgender students from using the bathroom that conforms to their gender identity and advanced arguments that construe transgender Americans as mentally ill when he represented the Gloucester County School Board in *Gloucester County Sch. Bd. v. G.G.*, the well-publicized Gavin Grimm case. Another Trump nominee, **Stephen Schwartz** (Court of Federal Claims), served as co-counsel for Gloucester County.