

NAACP Legal Defense and Educational Fund, Inc

Filed in Windsor

LDF writes separately to underscore that the judiciary has a distinctive role to play in rooting out the pernicious stereotypes that motivate laws like DOMA. (p. 4)

By virtually any measure, gays and lesbians have been subjected to systemic discrimination throughout our nation's history, resulting in their ongoing subordination as a class. And DOMA's express purpose is to create and perpetuate a hierarchy that dis-advantages gay people based on their sexual orientation. (p. 10)

By categorically excluding gay people from "more than a thousand" federal protections and obligations that come with marriage, DOMA treats gays and lesbians as legally and socially inferior.(p. 11)

DOMA's denial of marital benefits under federal law to gays and lesbians subordinates them within the institution of marriage. (p. 12)

Summary of Brief

The NAACP Legal Defense Fund (LDF) argues gay and lesbian people qualify for "heightened scrutiny" – in other words, that laws that target and disadvantage gay people should not be assumed to be constitutional. Tracing the development of equal protection "heightened scrutiny" to protect historically subordinated groups, LDF argues that laws that discriminate against gay people warrant heightened scrutiny because gay people have been subjected to on-going discrimination throughout our nation's history. Second, LDF argues that the Court has an important role to play in "rooting out the pernicious stereotypes that motivate laws like DOMA." (p. 4)

Notable Quotes

"DOMA's denial of marital benefits under federal law to gays and lesbians subordinates them within the institution of marriage. And like early laws that were designed to oppress African Americans, DOMA relegates gays and lesbians to an unequal and inferior status as a group. This is contrary to the core purpose of equal protection." (p.12)

"Of course, the nature of discrimination against gays and lesbians differs fundamentally from de jure racial segregation, just as racial discrimination differs from discrimination based on sex and other suspect classifications to which heightened scrutiny applies. But DOMA and other laws that purposefully infringe on the rights of gay people are analogous to the racial caste system effectuated under 'separate but equal' in an important respect: they create and perpetuate a social hierarchy that is premised on the superiority of one group over another." (p.10)

[DOMA] is premised on stereotypes regarding the fitness of gay and lesbian partnerships, and moral condemnation of gay people more generally. For these reasons, it is both stigmatizing and demeaning and perpetuates the historical discrimination that gay people have long suffered as a group (p. 11)

In every sense, DOMA demeans and stigmatizes gays and lesbians generally and consigns married gay men and lesbians in particular, by operation of law, to an inferior status. (p. 14)

“In every sense, DOMA demeans and stigmatizes gays and lesbians generally and consigns married gay men and lesbians in particular, by operation of law, to an inferior status. Consistent with the core function of equal protection law, the application of heightened scrutiny to DOMA is crucial.” (p. 14-15)

“While all branches of government have a role to play in ensuring the equal protection of the laws, the judiciary is best situated to protect subordinated groups whose rights are not always protected by majoritarian political processes.” (p. 13)

“First, by denying federal benefits to legally married gay and lesbian couples, which are granted to otherwise similarly situated heterosexual couples, DOMA codifies a social hierarchy based on sexual orientation that has destructive social and economic consequences. Second, DOMA promotes harmful and inaccurate stereotypes of gays and lesbians as immoral and as unfit parents in ways that reinforce their status as a lesser class.” (p. 14)

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The NAACP Legal Defense and Educational Fund, Inc. (LDF) is a non-profit legal organization that for more than seven decades has fought to enforce the guarantees of the United States Constitution against discrimination.