

# JOAN LARSEN ON LGBTQ RIGHTS

## Highlights:

- Joan Larsen wanted to limit the freedoms and rights of LGBTQ people.
  - Larsen, as part of the Michigan Supreme Court, denied hearing a case that would have granted custody to a LGBTQ parent.
  - Larsen criticized a move by the U.S. Supreme Court that struck down a law that criminalized consensual activity intimacy between LGBTQ couples.
  - Larsen ruled that anti-LGBTQ preachers had the right to harass pride event attendees with hate speech.
  - Larsen ruled against providing protections from discrimination based on sexual orientation or gender identity.

## Larsen Wanted To Limit The Freedoms And Rights Of LGBTQ Couples

### LARSEN DENIED HEARING A CASE THAT WOULD HAVE GRANTED CUSTODY TO A LGBTQ PARENT

#### Larsen And The Michigan Supreme Denied Hearing A Case Where A Same-Sex Partner Sought Custody And Parenting Time Rights To The Couple's Child

**A Same-Sex Partner Wanted Custody Of Their Children But Was Denied Because They Were Not The Biological Parent And Not Married To The Biological Parent.** According to Monroe County Lawyers, “Recently, in *Mabry v Mabry*, 499 Mich 997; 882 NW2d 539 (2016), the supreme court declined to hear a very similar matter where a same-sex partner sought custody and parenting time rights to the former couple’s child but was denied standing because that plaintiff was not the biological parent and not married to the actual parent. The lack of marriage made the equitable-parenting doctrine available to third parties for standing in custody and parenting time cases inapplicable in that case.” [Monroe County Lawyers, [5/21/18](#)]

**Larsen And The Michigan Supreme Court Denied To Hear Mabrey Case, Which Affirmed The Lower Court's Ruling That The Same-Sex Parent Did Not Have Parental Rights.** According to Case Text, “On order of the Court, the application for leave to appeal the December 18, 2015 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.” [Case Text, accessed [6/26/24](#)]

#### Larsen Opposed Giving Obergefell Full Effect By Denying The Mabry Case

**In Doing So, Larsen Opposed Giving Obergefell Full Effect In Michigan.** According to the Human Rights Campaign, “Larsen opposed giving Obergefell full effect as a State Supreme Court Justice in Michigan: In 2016, as a State Supreme Court Justice in Michigan, Joan Larsen joined a majority opinion failing to give the Obergefell decision full effect in the state of Michigan by refusing to reconsider a case denying parental visitation rights to a lesbian mother who would have been married to her ex-partner had same-sex marriage been legal at the time the couple was together.” [Human Rights Campaign, [9/25/20](#)]

- **In Obergefell v. Hodges The Supreme Court Of The United States Held That State Bans On Same-Sex Marriage And On Recognizing Same Sex Marriages Duly Performed In Other Jurisdictions Were Unconstitutional.** According to Cornell Law School, “*Obergefell v. Hodges* is a landmark case in which on June 26, 2015, the Supreme Court of the United States held, in 5-4 decision, that state bans on same-sex marriage and on recognizing same sex marriages duly performed in other jurisdictions are unconstitutional under the Due Process and Equal Protection clauses of the Fourteenth Amendment to the United States Constitution.” [Cornell Law School, accessed [6/26/24](#)]

### LARSEN CRITICIZED A MOVE BY THE SUPREME COURT THAT STRUCK DOWN A LAW THAT CRIMINALIZED CONSENSUAL INTIMACY BETWEEN LGBTQ PEOPLE

## **Larsen Wrote An Article Speaking Out Against The Supreme Court's Move To Strike Down A Texas Law Criminalizing Consensual Intimacy Between LGBTQ People**

### **Larsen's Article Criticized The Use Of International Laws The Supreme Court Used In Lawrence v. Texas In Which The Judges Struck Down A Texas Law Criminalizing Consensual Private Sexual Activity By LGBTQ People.**

According to SCOTUSblog, "Larsen's other writings, although few, also reflect a conservative bent. In 2004, she published an article in the Ohio State Law Journal on the Supreme Court's use of foreign and international laws to interpret the U.S. Constitution. Suggesting that it 'would be an understatement in the extreme to call the Supreme Court's decision in Lawrence v. Texas' – in which the justices, by a vote of 6-3, struck down a Texas law criminalizing consensual private sexual activity by same-sex couples – 'revolutionary.' Larsen criticized the majority's failure to offer 'a thoughtful and thorough justification' for its reliance on international law. 'Until they do,' Larsen asserted, 'it seems we are better off to abandon this particular use of foreign and international law.'" [SCOTUSblog, [1/9/17](#)]

### **Larsen Claimed The Majority Did Not Use "Thoughtful And Thorough Justification" For Their Look At**

**International Law.** According to SCOTUSblog, "Larsen's other writings, although few, also reflect a conservative bent. In 2004, she published an article in the Ohio State Law Journal on the Supreme Court's use of foreign and international laws to interpret the U.S. Constitution. Suggesting that it 'would be an understatement in the extreme to call the Supreme Court's decision in Lawrence v. Texas' – in which the justices, by a vote of 6-3, struck down a Texas law criminalizing consensual private sexual activity by same-sex couples – 'revolutionary.' Larsen criticized the majority's failure to offer 'a thoughtful and thorough justification' for its reliance on international law. 'Until they do,' Larsen asserted, 'it seems we are better off to abandon this particular use of foreign and international law.'" [SCOTUSblog, [1/9/17](#)]

## **LARSEN SIDED WITH ANTI-LGBTQ PREACHERS WHO HARASSED PRIDE EVENT ATTENDEES**

### **Larsen Ruled That Anti-LGBTQ Preachers Had The First Amendment Right To Harass Pride Event Attendees With Hate Speech**

**Larsen Joined A Majority Ruling That An Anti-LGBTQ Preacher Without A Permit Had The Right To Disrupt A Pride Event By Shouting Hate Speech Through A Bullhorn.** According to the Human Rights Campaign, "In 2018, Joan Larsen joined a majority opinion, ruling that an anti-LGBTQ preacher without a permit had the right to disrupt a Pride event by spew hate speech through a bullhorn in Nashville, Tennessee. The city sought to enforce a neutral permitting requirement that applied to all speakers." [Human Rights Campaign, [9/25/20](#)]

**Larsen's Ruling At The State Supreme Court Overturned The Conviction Of The Anti-LGBTQ Preachers Because Their Free Speech Was Allegedly Violated.** According to the United States Court of Appeals Sixth Circuit, "BEFORE: BATCHELDER, MOORE, and LARSEN, Circuit Judges. [...] ALICE M. BATCHELDER, Circuit Judge. John McGlone and Jeremy Peters were ordered to leave a public sidewalk, or else face arrest, for preaching against homosexuality outside of an LGBTQ pride festival in downtown Nashville. Nashville enforced this restriction against the preachers because of the anti-homosexuality content of their speech. Because Nashville's action does not survive strict scrutiny, it violated McGlone and Peters' free speech rights protected by the First Amendment. The district court erred in finding otherwise. We REVERSE." [United States Court of Appeals Sixth Circuit, accessed [6/26/24](#)]

- **John McGlone And Jeremy Peters Were Ordered To Leave A Public Sidewalk For Preaching Against Homosexuality Outside Of An LGBTQ Pride Festival In Nashville, They Were Convicted In A District Court.** According to the United States Court of Appeals Sixth Circuit, "BEFORE: BATCHELDER, MOORE, and LARSEN, Circuit Judges. [...] ALICE M. BATCHELDER, Circuit Judge. John McGlone and Jeremy Peters were ordered to leave a public sidewalk, or else face arrest, for preaching against homosexuality outside of an LGBTQ pride festival in downtown Nashville. Nashville enforced this restriction against the preachers because of the anti-homosexuality content of their speech. Because Nashville's action does not survive strict scrutiny, it violated McGlone and Peters' free speech rights protected by the First Amendment. The district court erred in finding otherwise. We REVERSE." [United States Court of Appeals Sixth Circuit, accessed [6/26/24](#)]

## **LARSEN RULED AGAINST PROVIDING PROTECTIONS FROM DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY**

**Larsen Affirmed A Ruling That Denied States Had To Comply With The New Title IX Rules That Said Federally Funded Programs Could Not Discriminate Based On Sexual Orientation Or Gender.** According to People For The American Way, “In the Sixth Circuit case, Judges Nalbandian and Larsen held that the Department’s actions amounted to a new ‘legislative rule’ that changed the states’ obligations under Title IX without an opportunity for notice and comment. In the absence of a preliminary injunction, they continued, the states are ‘likely to suffer irreparable harm’ because they will be ‘forced to comply’ with the Department’s views, ‘contrary to their own policies’ that do not ban discrimination based on sexual orientation or gender identity. They accordingly affirmed the preliminary injunction against the Department.” [People For The American Way, [6/18/24](#)]

- **Republicans Sued After The Department Of Education Moved To Offer Protections Under Title IX Against Discrimination Based On Sexual Orientation And Gender Identity In Federally Funded Programs.** According to People For The American Way, “In June of that year, the Department published an ‘interpretation’ of Title IX that explained that in light of Bostock and the similarities between Title VII and Title IX, it would enforce Title IX to ‘prohibit discrimination based on sexual orientation and gender identity’ in federally funded programs. The Department provided similar guidance in a widely distributed ‘Dear Educator’ letter and fact sheet. None of these measures prohibited specific actions by any particular school or institution but provided guidance concerning future planned enforcement. Twenty Republican states filed suit in federal court in Tennessee, challenging the legality of these actions. A district court issued a preliminary injunction in favor of the states, and the Department appealed to the Sixth Circuit.” [People For The American Way, [6/18/24](#)]