LAWRENCE VANDYKE ON LGBTQ RIGHTS

Highlights

- Lawrence VanDyke repeatedly stood against LGBTQ rights.
  - An American Bar Association review of VanDyke found that he was incapable of being fair to LGBTQ defendants.
  - VanDyke penned a piece expressing disdain for gay marriage and parenthood.
  - VanDyke co-wrote an amicus curiae brief defending a student group that sought to exclude LGBTQ students.

VanDyke Repeatedly Stood Against LGBTQ Rights

INTERVIEWS WITH VANDYKE'S PEERS FOUND THAT HE WAS INCAPABLE OF BEING FAIR TO LGBTQ DEFENDANTS

Interviews With VanDyke's Peers Found That He Was Incapable Of Being Fair To LGBTQ Defendants. According to a letter from the American Bar Association, "The evaluator's Formal Report is based on 60 interviews with a representative cross section of lawyers (43), judges (16), and one other person who have worked with the nominee in the four states where he has worked and who are in a position to assess his professional qualifications. They include but are not limited to attorneys who worked with him and who opposed him in cases and judges before whom he has appeared at oral argument. […] Some interviewees raised concerns about whether Mr. VanDyke would be fair to persons who are gay, lesbian, or otherwise part of the LGBTQ community. Mr. VanDyke would not say affirmatively that he would be fair to any litigant before him, notably members of the LGBTQ community." [American Bar Association Letter, 10/29/19]

VANDYKE WROTE AN ARTICLE OPPOSING GAY MARRIAGE AND PARENTHOOD

VanDyke Said That Gay Parents Were Bad For Children. According to a VanDyke op-ed in the Harvard Law Record accessed via the Wayback Machine, "The Op-Ed also accuses Glendon of ignoring the 'social science research recited in Goodridge.' The most significant collection of research in Goodridge is contained in Justice Cordy's dissent (fns. 22-27 and text thereafter) and, as we would expect with regard to such a new social institution as gay parenting, is somewhat inconclusive (although many studies raise concerns about gay parenting). What is quite settled, however, is that children on average fare best in stable, two parent families (fn. 23-24). This, combined with the correlative evidence of the decline in the family unit in Scandinavia, where de facto same-sex marriage has been around for about a decade, does provide ample reason for concern that same-sex marriage will hurt families, and consequentially children and society (see Kurtz, Weekly Standard, 2/2/04)." [Harvard Law Record, Op-ed – VanDyke accessed via the Wayback Machine, 3/11/24]

VanDyke Complained Of Alleged Christian Persecution After Gay Rights Increased In Other Countries. According to a VanDyke op-ed in the Harvard Law Record accessed via the Wayback Machine, "As for characterizing Professor Glendon's concerns that gay marriage may impinge on religious freedom as 'absurd,' all I can respectfully say in reply is that such a characterization is, well, absurd. In Canada, where their courts are forcing same-sex marriage on the populace, a Saskatchewan newspaper and a private citizen were fined for simply publishing a newspaper ad listing Bible verses about homosexuality. In Ontario, police visited the home of a Christian because homosexuals complained about his defense of marriage website. […] Sweden has just passed a sweeping 'hate crimes' law forbidding criticism of homosexuality – just in time to coincide with their renaming state-sanctioned 'partnerships' (which for almost 10 years have enjoyed all the same rights as marriage) as marriage (by making marriage officially gender-neutral). Pastor Green has already been arrested at his church for a sermon about homosexuality. The prosecutor quipped, 'Collecting Bible cites on this topic . . . does make this hate speech.' Given the recent fad in our highest court to look to other 'enlightened' nations for guidance, these anecdotes are quite disturbing. Especially when the trend is so uniform." [Harvard Law Record, Op-ed – VanDyke accessed via the Wayback Machine, 3/11/24]

VanDyke Claimed That Gay Rights Were Being Used As A "Weapon" Against Religious Individuals. According to a VanDyke op-ed in the Harvard Law Record accessed via the Wayback Machine, "While critics might counter that this would never happen in good ol' America, keep in mind that this is exactly what citizens of the above countries certainly would have said only a few years ago. But the trend of intolerance towards religion as homosexual 'rights' become legally entrenched is not merely an overseas phenomenon. In San Francisco, the state bar association forbids their judges to associate with the Boy Scouts. As early as the 1980s, Georgetown, a Jesuit school, was forced by the courts to extend 'university recognition' to gay student groups. Sexual orientation antidiscrimination laws are currently being used as effective weapons against religious landlords. It isn't 'absurd' to be concerned about threats to religious freedom given the chimera of 'tolerance' affiliated with homosexual rights." [Harvard Law Record, Op-ed – VanDyke accessed via the Wayback Machine, 3/11/24]

VANDYKE CO-WROTE AN AMICUS CURIAE BRIEF DEFENDING A STUDENT GROUP THAT SOUGHT TO EXCLUDE LGBTQ STUDENTS

In The Case Christian Legal Society Chapter v. Martinez, The Christian Legal Society Chapter Of The University of California, Hastings College of Law (CLS) Sought A Ruling That Allowed Them To Exclude Members Who Did Not Share The Same Sworn Beliefs. According to Oyez, "The Christian Legal Society Chapter of the University of California, Hastings College of Law (CLS) filed suit against the university in a California federal district for violating its First Amendment rights. The Hastings College of Law failed to recognize the CLS as an official student organization because state law requires all registered student organizations to allow 'any student to participate, become a member, or seek leadership positions, regardless of their status or beliefs.' In contrast, CLS requires its members to attest in writing that 'I believe in: The Bible as the inspired word of God; The Deity of our Lord, Jesus Christ, God's son; The vicarious death of Jesus Christ for our sins; His bodily resurrection and His personal return; The presence and power of the Holy Spirit in the work of regeneration; [and] Jesus Christ, God's son, is Lord of my life.'" [Oyez, Accessed 6/24/24]

VanDyke Wrote An Amicus Brief Supporting The Ability Of The Christian Legal Society To Exclude LGBT Students. According to VanDyke's Questions For The Record (QFRs) for his nomination to the Ninth Circuit Court of Appeals, "You filed an amicus brief in Christian Legal Society Chapter of the University of California Hastings College of the Law v. Martinez supporting the claim that the University of California Hastings' failure to recognize the Christian Legal Society (CLS) as a campus organization, based on its exclusion of LGBT students from membership, violated CLS's First Amendment rights." [VanDyke QFRs - nomination to the ninth court of appeals, 11/6/19]

VanDyke's Amicus Brief Expressed That The College Policy Of Requiring Non-Discrimination Against LGBT Students From College Organizations Was "Unconstitutional" And Infringed On Free Speech. According to VanDyke's Amicus Curiae brief for Christian Legal Society v. Martinez, "The oppressive and irrational impact of this policy is especially evident when applied to a pure expressive association like the Hastings Chapter of the Christian Legal Society (CLS), whose raison d'etre is to communicate its distinctive beliefs in a speech forum created for diverse student expression. By barring CLS from applying its belief-centered membership qualification, Hastings' policy threatens to turn a collective voice into a cacophony. However noble its educational or nondiscrimination goals, Hastings' policy is both self-defeating and unconstitutional. […] Hastings' policy also infringes CLS's freedom of speech. The policy is viewpoint discriminatory because it systematically privileges majority viewpoints over minority viewpoints by allowing the former to overwhelm the latter. The policy is also unreasonable because its effect is to drown out minority viewpoints, thereby impeding rather than advancing the stated purpose of the forum, which is to encourage diverse expression." [Amicus Curiae – Christian Legal Society v. Martinez, 2/4/10]

- **The Supreme Court Affirmed Lower Court Rulings That Found That The College Policy Of Prohibiting LGBT Discrimination Was Constitutional.** According to Oyez, "Conclusion - The Supreme Court affirmed the Ninth Circuit, holding that the college's all-comers policy is a reasonable, viewpoint-neutral condition on access to the student organization forum; and, therefore, did not transgress First Amendment limitations. With Justice Ruth Bader Ginsburg writing for the majority, the Court reasoned that the same considerations that have led the Court to apply a less restrictive level of scrutiny to speech in limited public forums, counseled the same result in this case. The Court further reasoned that, considering this constitutional inquiry occurs in the education context, Hasting's all-comers policy is reasonable and viewpoint neutral." [Oyez, Accessed 6/24/24]