

BSA GAY BAN UPHELD

Supreme Court says Boy Scouts of America can exclude gay men from troop leadership positions by Jonathan Kipp

Reversing a New Jersey Supreme Court decision about a gay scoutmaster, the U.S. Supreme Court voted 5-4 in support of the Boy Scouts of America's unwritten policy banning homosexuals from the organization.

The court's June 28 ruling emphasizes BSA's First Amendment right of "expressive association." The ruling does not address gay Scouts specifically, only setting a precedent for Scout leaders, but some believe enough room remains in the court's interpretation to justify the ouster of Scouts who are identified as gay.

BSA asserts that homosexual conduct is inconsistent with the values embodied in the Scout oath and law, particularly with the values represented by the terms "morally straight" and "clean," Chief Justice Rehnquist acknowledged in his opinion.

James Dale, an Eagle Scout and New Jersey scoutmaster, was dismissed from the BSA when organizers found out he is gay. It was Dale's case that the Supreme Court was reviewing when it concluded that it is within the organization's rights to discriminate based on sexual orientation.

"It was an amazing sweep based on very little evidence," says Portland attorney and former Scout Lake Periguey, who believes this decision is the first time the Supreme Court has allowed a group "to trump anti-discrimination laws simply by putting forth a reason."

Says Portland resident Edward Segel: "I wonder if this decision may serve as a blessing in disguise for the gay rights movement" by demonstrating the continuing existence of discrimination against the gay community.

While gay- and civil-rights activists and organizations expressed disappointment over the ruling, at least one gay organization was pleased with the decision.

Gays and Lesbians for Individual Liberty, working to advance the ideas of economic justice, personal freedom and individual responsibility, contends that the ruling is a "victory for the rights of gay men and lesbians." While the group doesn't support BSA's discriminatory practices that prohibit gay men, GLIL leaders believe the ruling actually will help protect gay men and lesbians in the long run.

"We benefit when freedom of speech and freedom of association are vigorously protected," says GLIL's Richard Sincere. "Gay men and lesbians have suffered when freedom of association has not been respected."

Charles Hinkle, a well-known Portland attorney, partially agrees with the high court. He says that the BSA, as a purely private organization, should have the right to limit its member-

ship according to whatever criteria it chooses. The freedom of association is a very important right, Hinkle believes. He says the key to this freedom, however, is keeping the organization private by not accepting, directly or indirectly, any public funding or support.

The Rotary Club and the Junior Chamber of Commerce (a.k.a. Jaycees), both ostensibly private organizations, were required by the Supreme Court to admit women. Hinkle believes the *Boy Scouts of America vs. Dale* decision is inconsistent with these prior rulings and that the court's opinion was the product of "homophobic bigotry." The message, he says, is that discrimination against persons because of

sexual orientation is more acceptable than is discrimination based on race or gender.

Robert Hansen, a telecommunications budget analyst and former Scout, says the decision may be a good one since it affirms the right of a group to freely associate with like-minded people. Furthermore, the decision may help to place a spotlight on the BSA and reveal what the group really stands for, he says, adding that he hopes the organization will no longer receive any public support.

Mary Kate Cullen, director of public policy at the Gay, Lesbian and Straight Education Network, doesn't agree with the decision. "We are deeply disappointed with a decision that sends the message that gay youth are second-class citizens," she wrote in a press release.

The case was one of the most-watched during a contentious year for the Supreme Court because of "its resonance with Main Street USA," according to the Lambda Legal Defense and Education Fund. The group says 37 amicus briefs were filed in the case, one of the largest numbers in Supreme Court history.

In Oregon, while local scouting officials may be celebrating the decision, not everyone sees the logic.

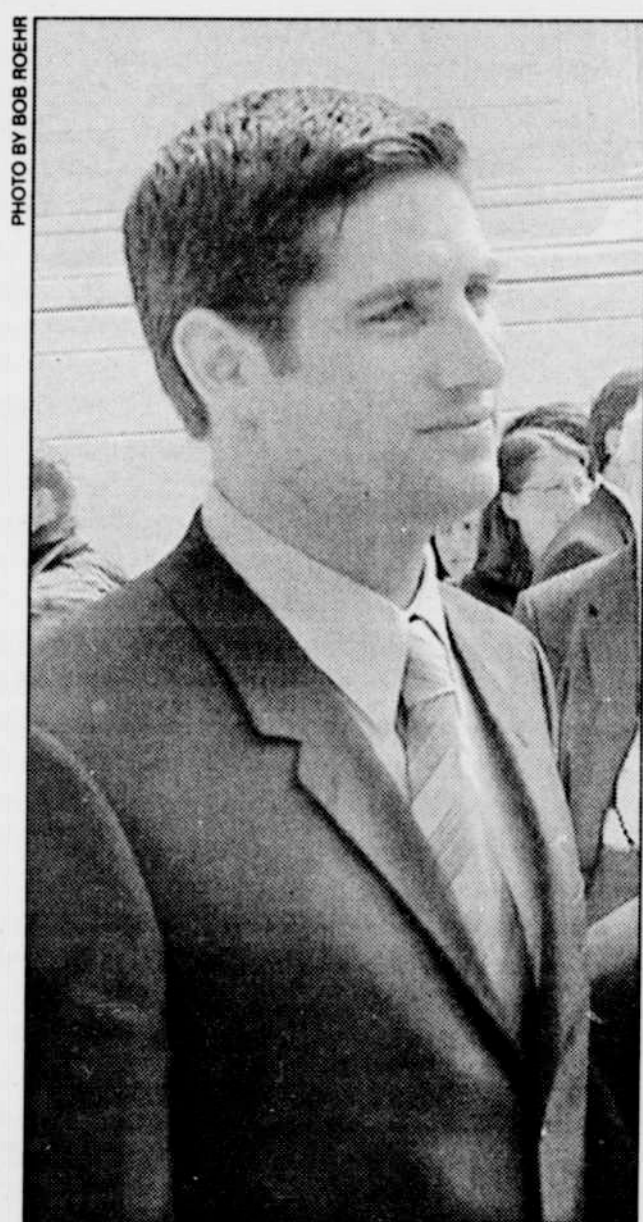
"Sexual orientation is no better an indicator of a Scout leader's quality than is the color of his skin, his ethnic origin or his religion," a June 30 *Oregonian* editorial said.

Kevin Ward moved up through the ranks of the Boy Scouts, eventually becoming an Eagle Scout and holding other leadership positions. He was angered when he heard the decision.

"When I heard the ruling, I was sorely tempted to tear my Eagle Scout card in half and send it back to BSA," Ward told *Just Out*.

But Ward thought about it and decided it would be better to be visible as a gay Eagle Scout than to be invisible because of his anger.

"I'm keeping it," Ward said about his award. "It's the only proof that I have that I excelled in that organization."



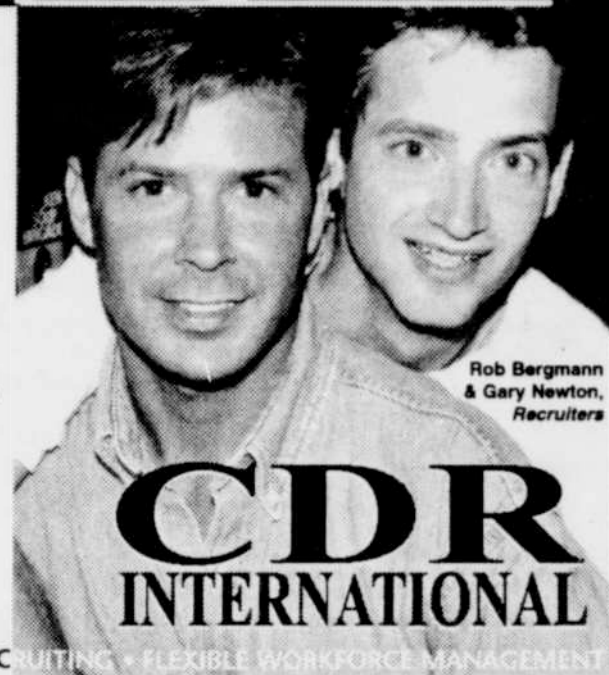
James Dale of New Jersey

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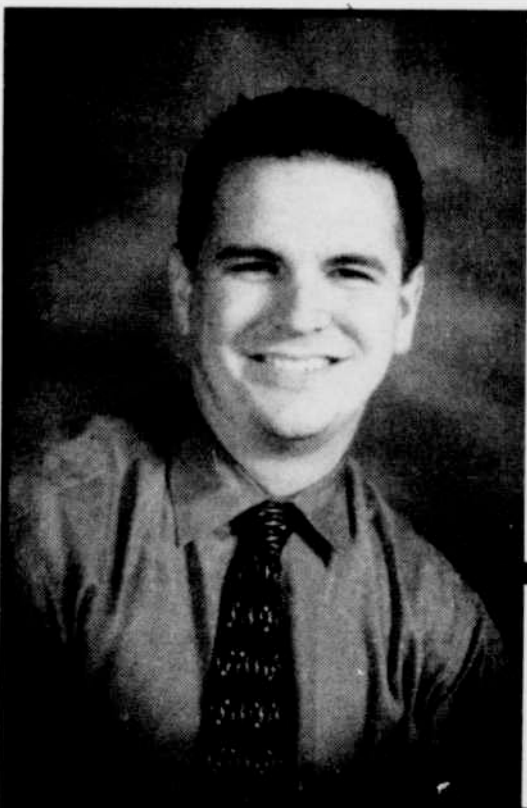
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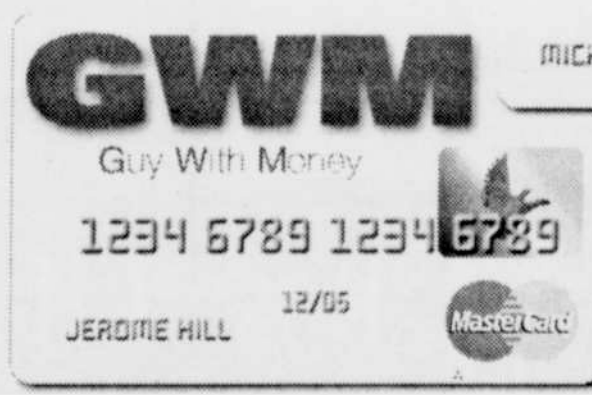


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