

**TRANSGENDER, from page 3**

comes out to the press conference "The federal budget went through, were not going to shut down." So I was thrilled, I was like OK, I got my job! So I called (the contractor) on Monday morning, no response. I called her for the rest of that week, e-mailed her, spent the next two weeks trying to get ahold of her. Nothing, no responses, she won't return voicemail. Later I went to an LGBT job fair and everyone I talked to there said you need to go to this legal assistant and talk to them. So the legal assistant tried to get ahold of the contractor. And they couldn't either, so they decided to initiate an investigation with the Equal Employment Opportunity Commission. At the first level, it's a 30-day investigation, and at the end of 30 days, the EEOC came back and said it believed that something really happened, but that I had a problem: What I was claiming as discrimination isn't covered in the United States.

The ATF is part of the Justice Department. Even though the Justice Department has transgender inclusive protection, the ATF does not. It's one part of the Justice Department that doesn't fall under it. The State Department, everyone else, but under the DOJ the ATF didn't have it, so its not protected.

So the EEOC sent it up to the next level, and the next level and the next level, it kept going through levels saying there's something wrong, something fishy, these people are not giving us the right answers. But we were at the final level, and they said you're not entitled to an investigation. Anyone else that would file an EEOC complaint in this country for discrimination would have this formal process, where an investigator for the EEOC would come out and investigate and go through a formal process. Unfortunately, because what you're claiming isn't covered, you're going to have to go through this independent process we've established.

I asked what would happen at the end of this if they did discriminate? "Well, since its not covered, we have this administrative body that will look into it and then they will determine whether there's any legal recourse for you," they said.

I said "I don't even get to go to court, I don't get a letter to sue?"

"No," they said. "It's not covered."

**C.V.F.:** *When did you decide to challenge the Civil Rights Act?*

**M.M.:** So we appeal to the EEOC. Since the 1964 Civil Rights Act, nobody had ever filed a complaint on the ground that I had. Title VII of the Civil Rights Act covers race, sex, and religion and people had never really challenged any of those. So I filed a sex discrimination case because it was really basically what it came down to.

For example: If you were a Christian-run business and you had 100 employees and on Friday night they all leave work and they're all Christian employees and over the weekend they all convert to Judaism, and they all come in Monday morning and they say now we're Jewish and you fired them for that, that would be clearly discriminatory. The point was, what was the difference with sex? If you have a male employee on Friday and he comes in Monday and he's transgender and he's transitioned and on Monday she's now female, and you fire them for that, that is straight up the same as sex discrimination. And no one had ever filed it as sex discrimination. There had been hundreds of cases if not thousands in the country, but they all filed independently in court. No one had ever challenged the actual Title VII interpretation. And so I did.

**C.V.F.:** *So what is the crux of the decision? How did your case change Title VII?*

**M.M.:** My case covers anybody. The decision from the EEOC didn't even come down on the basis of prior transgender cases. There were a few that they used for

prior references, but the case that they used was *Price Waterhouse v. Hopkins*. That's where a female employee was told by her male coworkers and her boss in an e-mail that if she were more feminine she would be promoted faster, you're a little too butch, you need to fem it up a little, wear more skirts and heels and you will do better." They actually sent this in an e-mail. So she sued and she won and that is the crux of the case.

My case is really a sex discrimination case on its merit, so after the court went through the review process, they ruled in my favor. I won that decision. All of those protections are now under "sex" under Title VII. What it entitled me personally is I now would get a formal investigation. The EEOC investigated the ATF and the whole thing. But the crux of it was the part that people didn't really like at first, the lawyers, that not conforming to gender stereotyping.

And the end of the investigation, we found that there were four people that specifically lied in this case. It's really infuriating because here's a person, myself, that the government and cities and citizens have paid to train me throughout my career, and here these people lied, purposely, just cause they don't want to work with me.

**C.V.F.:** *What's keeping you going? Its clearly difficult. You're still fighting this case. You had to go and challenge the Civil Rights Act, what was it that kept you motivated?*

**M.M.:** What pissed me off about this whole thing was when they told me that — after being in the military, after being a cop and after all that I had done — that I actually have a complaint but that I'm not entitled to go into a court. I'm not allowed to actually have the same rights of another citizen.

There are always going to be discrimination cases and there's going to be transgender people that are discriminated that go to court. My case will help in defining what a judge will now define as what is transgender, what is protected. That's the history maker. I never wanted another person that went in for a government job in the DOJ or any job, to be told they're a second-class citizen again. That's the piece that I wanted. Because discrimination is going to happen, we can't get rid of it, but we can lessen the cases of someone being told that they're second class. That is what drives me. And I'm so proud of this.

**C.V.F.:** *Do you see a future with more cases like this?*

**M.M.:** That's what were seeing since the decisions in 2012. My win (with the contractor) was in 2013. My win initially with the EEOC in 2012. Since 2012, we've seen hundreds of cases filed for transgender workers that have lost jobs and such. Mine was one of the most difficult. It wasn't that I was already working there and transitioned at work and then got fired, which is a clearcut case. Mine was that I was coming to start and they decided not to hire me or have me work there. So it was one of the more difficult cases to prove and we did it. There will be a landslide because of my case and other cases judges now have across the country. South Dakota last year ruled for an employee, a transgender employee who filed against her employer and she won. And the judge cited *Macy v. Holder*.

**C.V.F.:** *That's pretty cool.*

**M.M.:** Yeah its cool! Because judges need a legal definition of what gender is. Before it just sat on the books as male and female. You want to talk about a landslide: Last summer, a year after my decisions, the Department of Education used Title V (the department's equivalent to Title VII under the Civil Rights Act) quoting *Macy v. Holder*. They changed the definition in Title V. They're using that for student protection so they can go to the bathroom. So colleges, dorm rooms, admissions — all of those are establishing transgender protection. This

year we should get the Department of Defense.

That side of it is the legacy. There's a whole group of people who have a recourse, there's a whole bunch of people who now are not considered a second class, which is cool. But it's three years of my life, and probably another three years and it will always follow me, which I'm proud of.

**C.V.F.:** *Is it difficult to get a job after this?*

**M.M.:** Its crap. I'm really happy I get to do this with this newspaper, I totally empathize.

I've applied, had three interviews in three years. Two telephoned, one actually let me come in, I couldn't believe it. I applied for multiple police departments, 21 police departments, went through the process with a few of them all the way to the end, polygraphs, passed; my background impeccable, no arrests, no drugs, I had an

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impeccable police career and military career. They won't hire me. I actually had a background investigator tell me "You're not going to get hired, they won't let you back in." And they didn't. I can't get in the door. They Google my name and immediately the first thing you see is this case. I'm immediately outed.

A lot of people don't get it, on a job application, the people who are homeless understand this; I can't hide from my past. Usually the second line on any job application is any name that you've used in the past or prior. You're immediately outed as transgender. I belong to a group of T-cops, police and first responders who are transgender. They won't let you back in. So, you either transition on the job, and go through the hell of that, or you go retire and then you transition and then you're done.

As somebody who was in the military, when you get out of the military you get a DD214, the form you carry for life. They don't allow you to amend your name on it. So any time I put down on an application that I need veteran points, I have to submit my DD214, which immediately outs me on that paperwork.

**C.V.F.:** *What do you really hope to see changed as far as how the LGBT community is treated in the workplace?*

**M.M.:** Primarily for the workplace and employment, I know a lot of people, healthcare is on their agenda and housing, marriage. My thing is, we can fix a lot of this if we can get jobs. Marriage equality is great, but (after) putting those moneys and everything they did in those lawsuits and efforts in promoting marriage equality, I'd like to see them shift it now in getting us work, training employers and educating employers around the country that we are a good work force. We have to get back to work, and it's just like any issue of homelessness and unemployment, it starts with having a job and that is happening. It's going to take a while, but it's happening.

On April 29, the Department of Education announced that Title IX could protect transgender students, and prohibit "discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity."

On May 30, the federal government lifted a 33-year ban on Medicare gender reassignment surgery