Observing Tucson And The Greater Arizona Community

OBSERVER

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Tucson Observer Archives

Federal Judge Rules Aginst DOMA Twice

BOSTON (Observer Update) - The Keen News Service reports that in an enormous victory for same-sex marriage, a federal judge, in two separate cases, that a critical part of the federal Defense of Marriage Act is unconstitutional.

In one challenge brought by the state of Massachusetts, Commonwealth of Massachusetts v. Health and Human Services, Judge Joseph Tauro ruled that Congress violated the Tenth Amendment to the U.S. Constitution when it passed DOMA and took from the states decisions concerning which couples can be considered married.

Tauro considered whether the federal law's definition of marriage–one man and one woman–violates state sovereignty by treating some couples with Massachusetts' marriage licenses differently than others.

In the other, Gill v. Office of Personnel Management, he ruled DOMA violates the equal protection principles embodied in the Due Process Clause of the Fifth Amendment.

Gay & Lesbian Advocates & Defenders, a gay legal group, had asked Tauro to consider whether DOMA violates the right of eight same-sex couples to equal protection of the law.

Both cases were argued separately in May. The decision released today is a relatively quick turnaround, given that some judges take almost a year to decide cases.

GLAD attorney Mary Bonauto told Tauro that DOMA constitutes a "classic equal protection" violation, by taking one class of married people in Massachusetts and dividing it into two. One class gets federal benefits, the other does not. Just as the federal government cannot take the word "person" and say it means only Caucasians or only women, said Bonauto, it should not be able to take the word "marriage" and say it means only heterosexual couples.

Bonauto said the government has no reason to withhold the more than 1,000 federal benefits of marriage from same-sex couples, and noted that a House Judiciary Committee report "explicitly stated the purpose of DOMA was to express moral disapproval of homosexuality."

Maura T. Healey, chief of the Massachusetts Attorney General's Civil Rights Division, told Judge Tauro that Section 3 of DOMA–the section that limits the definition of marriage for federal benefits to straight couples–violates the state's right under the federal constitution to sovereign authority to define and regulate the marital status of its residents.

Healey called DOMA an "animus-based national marriage law" that intrudes on core state authority and "forces the state to discriminate against its own citizens."

Christopher Hall, representing HHS, said Congress should be able to control the meaning of terms such as "marriage," used in its own statutes, and should be able to control how federal money is allocated for federal benefits provided to persons based on their marital status.

Tauro essentially replied that the government's power is not unlimited.

Both Bonauto at GLAD and Healey at the Attorney General's office urged Tauro to apply heightened scrutiny in considering whether the federal government had any legitimate need for DOMA.

Heightened scrutiny requires the government to come up with a fairly significant reason for treating gay couples differently under the law. In both cases, however, the judge said that DOMA failed to meet even the most simple judicial review, rational basis -in other words, there was no justifiable reason to the federal government to treat same-sex couples differently.

Both lawsuits are very precise legal attacks against DOMA–targeting just Section 3–and most legal observers believe both cases will eventually be appealed to the U.S. Supreme Court for resolution.

The only other marriage case right now that has that same potential is the Proposition 8 marriage case in a federal district court in San Francisco. Judge Vaughn Walker heard closing arguments in that case in June and has not yet issued his decision.

The next step for all three cases is the U.S. Court of Appeals.

Wingspan By The Numbers

Wingspan Activities from July 1, 2009, to May 31, 2010

Wingspan's Anti-Violence Programs

533 - People affected by violence who contacted an Anti-Violence Program advocate via the bilingual 24-hour crisis line or during walk-in hours, weekdays 11 a.m. to 4 p.m.

Wingspan serves all of Southern Arizona. This past year, advocates assisted people affected by violence in communities as far as

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Explanation Of The DOMA Decision

BOSTON (Observer Update) - Federal District Court Judge Joseph Tauro ruled that section 3 of the Defense of Marriage Act is unconstitutional, reports 365Gay.com. Tauro ruled based on two distinct cases, Commonwealth of Massachusetts v. Health and Human Services and Gill et al. v. Office of Personnel Management.

A breakdown of the cases:

Commonwealth of Massachusetts v. Health and Human Services

-Massachusetts legalized same-sex marriage in 2005

-The state, under Attorney General Martha Coakley, sued Health and Human Services about section 3 of DOMA.

-Section 3 of DOMA offers a federal definition of marriage: "...the word 'marriage' means only a legal union between one man and one woman as husband and wife."

-Mass. challenged section 3 on the grounds of the 10th Amendment in the Constitution which reserves that powers not delegated to the federal government by the Constitution to be the powers of the states or the people.

-Mass. said that there was no federal power to enact DOMA.

-Mass. also challenged DOMA by saying that it effectively puts conditions on how Massachusetts spends its money.

-Judge Tauro ruled in favor of Mass., saying that section 3 of DOMA took the power away from the states when it (and thus federal powers) determined which couples are or are not married. Only the states may decide who is married in their state.

In other words, Congress overreached by making a law that - for the first time in U.S. history - said that the federal government could decide that a couple was not legitimately married, even if a sovereign state says they are.

Scope: The Massachusetts case would apply to the entire Commonwealth. It would not affect couples who live outside of Massachusett's borders, even if they reside in other states with marriage (i.e., Connecticut).

Gill v. Office of Personnel Management

-The case challenges DOMA's section 3 suggesting that it violates equal protection guaranteed by the Due Process Clause of the Fifth Amendment

-Seven married couples and three widowers allege that they have been subject to higher taxes and a lack of health and survivor benefits compared to heterosexual married couples.

-Tauro determined that this inequality was indeed a violation of the constitutional guarantee to equal protection

Scope: The Gill case technically applies ONLY to the specific couples that were parties to the suit. Until there is a stay, those couples may apply for tax refunds, federal Social Security benefits, etc. However, the judge's language is broad enough that GLAD lawyers believe the ruling may apply more broadly to all Massachusetts couples.

In either case, it may have an affect on the IRS, Office of Personnel Management, Social Security Administration and other federal departments - they could decide to amend their rules for everyone based on the ruling, especially if the entire First District is affected upon appeal.

What happens next?

As of this writing there is no stay. However, it is expected that the federal government will appeal and ask for a stay Friday, meaning that things will stay as they were before the ruling: no federal recognition of gay marriages yet. The cases are likely to keep moving through the courts in tandem.

If the plaintiffs (the gay side) for EITHER case win in the First Federal Circuit Court of Appeals in Boston, then it is very likely that section 3 of DOMA will be struck down for the entire district: Massachusetts, New Hampshire, Maine, Rhode Island and Puerto Rico. This would mean that married couples in New Hampshire would also have their marriages recognized by the federal government.

Said Mary Bonauto, who argued the Gill case: "Should we prevail in the first circuit it may be a fatal blow to DOMA in its entirety."

At that point, Congress might to decide to repeal at least that section of DOMA. Should they decide not to repeal, it is very likely to go on to the Supreme Court. Lawyers for GLAD expect there to be a decision by the Court of Appeals by the beginning of 2012.

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Wingspan By The Numbers

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Yuma, Ajo, Sells and Sierra Vista, and even in other states such as California, Texas and Missouri.

1,858 - Professionals trained by Anti-Violence Program staff to better assist LGBT survivors of violence.

Those trained included educators, medical staff, social-service professionals, counselors, court staff and public-safety officials.

Wingspan's Southern Arizona Gender Alliance (SAGA)

300 - Average number of people who each month log onto the SAGA website, www.sagatucson.org, for resources and community.

60 - Average number of people each month who access services on a walk-in basis who are transgender or seeking information about transgender issues.

350 - Medical professionals trained to better serve their transgender patients.

Wingspan's EON Homeless Youth Project

408 - Homeless youth who came to the drop-in center for counseling, peer support, tutoring, food, bus passes, clothing and information about resources available to them.

30 - Homeless youth assisted with obtaining safe shelter.

Wingspan's EON Youth Center & Lounge

1,038 - Individual youth who came to the drop-in center for classes, groups, counseling and peer support.

20 - Leadership and personal-development events and workshops offered to youth in the last 11 months. About 200 youth of our emerging generation of LGBT leaders participated in these Wingspan-led leadership events.

20 - Average number of at-risk youth who come to Wingspan once a month for a hot meal cooked by volunteers from Wingspan's Southern Arizona Gender Alliance.

Wingspan's Work to Build a Strong LGBT Community

300 - Community members who participated in 2009 Latin Gay Pride events.

2,289 - Community members who are fans of Wingspan on Facebook.

4,503 - Community members who subscribe to Wingspan's e-news and receive all the latest Southern Arizona LGBT-related news and events.

Wingspan Update

TUCSON (Observer Update) - The Wingspan Anti-Violence Programs (AVP) is organizing a community event to raise awareness of Anti-Gay/Trans bullying in local area middle and elementary schools. The event was motivated by a recent increase in calls to the crisis line from community members personally or vicariously affected by school violence.

The goal for the community event is to draw attention to Anti-Gay/Trans bullying in local area middle and elementary schools and serve as a catalyst for cultural change.

LGBT issues are taboo subjects for many middle and elementary schools, leaving students to suffer in silence. Affected students and their parents need the support.

The AVP staff, AVP advisory committee and community members had an initial planning meeting in June. A follow-up meeting is scheduled for Thursday, July 15, 2010 at 5:30 p.m. The meeting will take place at the SAAF offices at 375 S. Euclid Avenue. Interested community members who want to help plan the event are invited to attend the July 15 meeting.

For more information, please contact AVP Manager Oscar Jimenez at ojimenez@wingspan.org.

Wingspan will host an open house for the whole community at the center from 4 pm to 6 pm, Wednesday, July 21. Come meet staff, board members, learn more about the center and the work of Wingspan, you could even check out a book from the library, and just generally make yourself right at home. After all, it is your center.

Wingspan is located at 430 East Seventh Street, just a short walk east of 4th Ave.

Eon youth are invited to come and enjoy the festivities with the whole community at the center.

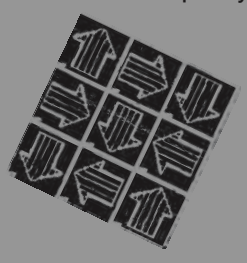
AVP support group meets monthly - Have you been the victim of recent or past violence, abuse, or harassment? Wingspan offers a free and confidential discussion Group for LGBT Victims/Survivors of any form of violence, abuse, or harassment. This group meets once a month from 5:30 pm to 6:30 pm on the fourth Tuesday of the month at the AVP office.

The AVP office is in the building to the west of Wingspan. Please enter from the parking lot in front of Wingspan. The next group will meet Tuesday, July 27.

Gratitude for community support - A big thanks goes out to the Raytheon GLBTA Employee Resource Group. They just established the Louise Young Community Engagement Fund to help support collaboration between SAAF, TIHAN, and Wingspan on volunteer recruitment, retention and recognition. The Raytheon employee group has already raised $4,200 for the effort.

Play golf? The second Wingspan Classic Golf Tourney will be November 12 at the Omni Tucson National Golf Resort. Registration and sponsorship opportunities are open now on our website: MailScanner has detected a possible fraud attempt from "r20.rs6.net" claiming to be WingspanClassic.com. Player registration is only $125 until September 1, 2010, then it goes to $150.

New for transgender travelers - Just another reminder before you head off on your next border crossing, international adventure, the U.S. State Department has announced new guidelines for issuing passports to transgender people. One of the significant changes is that gender-reassignment surgery is not required under the new policy.



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Informing the Community
The Observer

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Explanation Of The DOMA Decision

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Why will the Obama administration appeal if they support the repeal of DOMA?

GLAD lawyers say that "the executive branch has the responsibility to defend an act of Congress." They expect appeal.

The DOMA case is not Prop 8; And - The Supreme Court

Lawyers for GLAD made it clear that even if DOMA is overturned by the Supreme Court through this case, Prop 8 will still need to wend it's way through the courts (unless it is repealed through a ballot measure or other means).

"Prop 8 is a marriage case, it is about people being denied the right to marry in a state; ours is a case of people who are already legally married in a state who are seeking federal recognition," said Bonuato. "Our plaintiffs are already married."

However, GLAD lawyers added that it can't hurt the Prop 8 case - currently waiting for a decision- that a federal judge ruled that the rationales given for DOMA - which are similar to the Prop 8 rationales - are invalid.

The Prop 8 case, since it will be appealed to the larger 9th circuit, is likely to take longer before making a ruling. It is unlikely that the Prop 8 case and the DOMA case will be heard together by the Supreme Court.

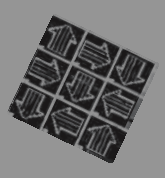
GLAD lawyers believe that, should both DOMA cases reach the Supreme Court, they will not be decided along partisian 5-4 lines, because it is really a question of federalism - that is, was Congress overreaching when it took power away from the States.

Some important points

-The decision by Judge Tauro refuted the points made by Congress when they enacted DOMA in 1996, leaving only animus - or hatred/fear of gay people - standing as a reson for the law.

-Tauro noted that DOMA was supposedly a means of preserving the status quo of heterosexual marriage while the states debated the matter; in reality, he said, the federal status quo was that the federal government defered to the states to determine who is married.

"The federal government should treat all married people like the married people they are, whether in California or Massachusetts," said Bonauto.



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TGLBTCC Meeting July 15

TUCSON (Observer Update) - A Great Networking Opportunity for All, for "A Taste of Tucson."

Join us on July 15, 5:30 to 8:00 p.m., Hotel Tucson City Center Conference Suite Resort, 475 N. Granada Ave., for our evening mixer, featuring a mini dine-around catered by some of Tucson's best eateries. We've got some serious fun and a serious topic planned. This would be a great meeting to bring a guest - or two - or three.

$20 members/ $25 guests. $5 discount for members and guests who RSVP by Monday, July 12, 615-6436 or info@TucsonGLBTChamber.org.

We'll kick off the meeting with a sampler of some great dishes catered by restaurants including Feast, Pastiche , Cup Cafe, Acacia, and 47 Scott. Enjoy a cocktail or some wine from the cash bar while networking with your business colleagues and friends.

Then, participate in a forum to discuss the pros and cons of the S.B. 1070 boycott against Arizona businesses and learn what other Chambers of Commerce and business organizations are thinking and saying, both here in Arizona and nationally. Your Board of Directors would like to consider our members' input as we craft an "official" statement of position. And finally, the Rogue Theatre will entertain us with a program designed especially for this event.

Kids' Box Office More Than All Right

NEW YORK (Observer Update) - Lisa Choldenko's highly acclaimed lesbian family dramedy, The Kids Are All Right, is off to a spectacular start at the box office.

The film, which opened July 9 and stars Annette Bening, Julianne Moore, and Mark Ruffalo, grossed $505,000 on seven screens. The $72,143 per screen average is the second largest for a film playing at seven or more screens and the 27th largest in history.

Kids is now in limited release and will expand to more theaters each in July.

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Foul Play In Cleveland Gay Games Selection

CLEVELAND (Observer Update) - Advocate.com reports that Cleveland may have sealed its status as the location of the 2014 Gay Games, but representatives from other cities believe foul play led to the city being chosen.

Cleveland beat out finalists Boston and Washington, D.C., to host the largest international competition for LGBT athletes. Bidders from both cities say they're not pleased with the city selection of the Federation of Gay Games, according to Boston Spirit Magazine.

Boston organizers contend Cleveland received preferential treatment in the selection process and avoided punishment for breaking rules when submitting its Gay Games proposal.

"We thought we were going into a fair playing field, but unfortunately it was not," Team Boston committee member Marc Davin said in the Boston Spirit article.

Boston's committee believes Cleveland received special treatment because an LGBT sports competition in Ohio could raise awareness about gay rights issues in the Midwest. Boston volunteers claim they could provide better venues, more money to help with Gay Games events, and a better cultural atmosphere for the competition

Cleveland representatives say the Federation should review its rules for the selection process to make future bidders less confused about following the rules.

"We tried our best to follow all of the rules and regulations, but there was some conflicting information from the Federation," said Jeff Axberg, one of the primary organizers of Cleveland's Gay Games bid.

Some Boston organizers say they plan to boycott the games because of Cleveland's selection.

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Transgender Woman Wins Federal Discrimination Lawsuit

ATLANTA (Observer Update) - Vandy Beth Glenn, represented by Lambda Legal, a legal organization working for LGBT rights, won her case against the Georgia General Assembly, when a federal judge declared that the assembly illegally discriminated against her, 365Gay.com reports.

Glenn was working as a Legislative editor at the General Assembly's Office of Legislative Counsel in Georgia. She lived and worked as a man when in 2007, Glenn told her supervisor that she was planning on transitioning to become a woman.

Glenn had been diagnosed with Gender Identity Disorder, which is how the Diagnostic and Statistical Manual of Mental Disorders labels transgender individuals. With her diagnosis, her doctors agreed that for her health and mental well-being, Glenn should transition fully.

But when Glenn informed her supervisor of her plans, including showing pictures of herself in women's work attire, her boss fired her.

Sewell Brumby, the General Assembly's Legislative Counsel, made the decision to terminate Glenn. According to Lambda Legal, he said that her transition "was inappropriate, that it would be disruptive, that some people would view it as a moral issue, and that it would make Glenn's coworkers uncomfortable."

Glenn's attorneys sued under the Equal Protection Clause of the Constitution, saying that Glenn was fired because she did not conform to the sex stereotypes and because of a medical condition. The court rejected the medical claim, but ruled in favor of Glenn based on sex-stereotype discrimination.

Glenn said of the decision, "This is a major victory for all transgender people across the country, and I hope that a federal discrimination law will follow in its wake."

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NBC Changes Rules To Allow Gay 'Today' Wedding

NEW YORK (Observer Update) - After a meeting with gay and lesbian activists, NBC's "Today" show said it is changing the rules for its annual wedding contest to allow same-sex couples to apply for a ceremony conducted on morning TV.

NBC extended the deadline for applications. Already thousands of couples have expressed interest in the on-air wedding, which the top-rated morning show has sponsored for a decade, a spokeswoman said.

"We're thrilled that 'Today' show's 'Modern Wedding Contest' now recognizes what most fair-minded Americans have already concluded – a wedding celebrates love and commitment, whether the spouses are straight or gay," said Jarrett Barrios, president of the Gay & Lesbian Alliance Against Defamation.

Viewers plan every aspect of the wedding, from the cake to the clothing styles of attendants. NBC picks four couples from thousands of applicants, and viewers vote on which of those couples will participate.

Same-sex couples have been excluded because New York state law does not allow them to get wedding licenses. But NBC said GLAAD pointed out that a same-sex couple would be able to get a license from another state and still have their ceremony in New York.

NBC said it had listened to voicemails and read e-mails protesting its decision not to allow same-sex marriages. The show considers relations with the gay and lesbian community very important, it said in a statement.

"Moving forward, we ensure that our future wedding contests will be inclusive to all couples," NBC said.

The only time same-sex couples were allowed to apply for the "Today" wedding was in 2005, when an out-of-state wedding was held, said show spokeswoman Megan Kopf. No gay or lesbian couples were among the finalists, however.

Although "Today" viewers will decide which couple to get married on TV, it will choose from among four that "Today" producers screen and put up for a vote. So there's no guarantee that even if same-sex couples apply for the on-air wedding, viewers will have a chance to select one to participate.

GLAAD said it only learned last week that same-sex couples weren't allowed to apply, and issued a "call to action" for members to complain to NBC. Thousands did, the organization said.

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DOJ Reviews Mass. Ruling On Federal Gay Marriage Ban

BOSTON (Observer Update) - A judge's rulings in Massachusetts that the federal law banning gay marriage is unconstitutional could have implications far beyond the state if they're upheld by a higher court after an appeal by the Obama administration, legal experts say.

U.S. District Judge Joseph Tauro said the law, the Defense of Marriage Act, interferes with the right of a state to define marriage and therefore denies married gay couples some federal benefits. He ruled Thursday in favor of gay couples' rights in two separate challenges to DOMA, which the administration of President Barack Obama has argued for repealing.

The rulings apply to Massachusetts, but if a higher court with a broader jurisdiction were to hear an appeal and agree with the judge's rulings, their impact would spread, said Boston College professor Kent Greenfield, a constitutional law expert. The rulings might encourage other attorneys general who oppose DOMA to sue to try to knock it down, he said.

"One thing that's going to be really interesting to watch is whether the Obama administration appeals or not," he said.

An appeal would be considered by the First Circuit, which also includes Rhode Island, Maine and New Hampshire.

The Department of Justice didn't immediately say whether it would appeal; it was reviewing the judge's decisions, spokeswoman Tracy Schmaler said.

Massachusetts had argued the law denied benefits such as Medicaid to gay married couples in the state, where same-sex unions have been legal since 2004.

The judge agreed and said the law forces Massachusetts to discriminate against its own citizens to be eligible for federal funding in federal-state partnerships.

The act "plainly encroaches" upon the right of the state to determine marriage, the judge said in his ruling on a lawsuit filed by state Attorney General Martha Coakley. In a ruling in a separate case filed by Gay & Lesbian Advocates & Defenders, or GLAD, the judge said the act violates the equal protection clause of the U.S. Constitution.

"Congress undertook this classification for the one purpose that lies entirely outside of legislative bounds, to disadvantage a group of which it disapproves," he wrote. "And such a classification the Constitution clearly will not permit."

One of the plaintiffs in the GLAD lawsuit, Nancy Gill, said she was "thrilled" with the rulings.

"I'm so happy I can't even put it into words," she said.

Gill and Marcelle Letourneau married in Massachusetts in 2004 after being together for more than 20 years.

When Gill, a U.S. postal worker, tried to add Letourneau to her family health plan, she was denied. The couple were forced to get separate insurance for Letourneau, who has a medical transcription business at home and does administrative work for the local Visiting Nurse Association.

Letourneau called the rulings "life-changing."

"I can get on Nancy's insurance," she said. "That's just a huge victory, and it gives us peace of mind."

Coakley called it a "landmark decision" and "an important step toward achieving equality for all married couples in Massachusetts."

The Department of Justice had argued the federal government had the right to set eligibility requirements for federal benefits – including requiring that those benefits go only to couples in marriages between a man and a woman.

Opponents of gay marriage said they were certain the rulings would be overturned on appeal.

Andrea Lafferty, executive director of the Traditional Values Coalition, called the judge's rulings "judicial activism" and said he was a "rogue judge." Gay marriage advocates will keep pushing their agenda in the courts, she said, but noted voters consistently have rejected gay marriage at the ballot box, including in a recent California vote.

"We can't allow the lowest common denominator states, like Massachusetts, to set standards for the country," Lafferty said.

Tom McClusky, senior vice president of the conservative Family Research Council, said the rulings result in part from "the deliberately weak legal defense of DOMA" that the Obama administration mounted on behalf of the government.

"While the American people have made it unmistakably clear that they want to preserve marriage as the legal union of one man and one woman, liberals and activist judges are not content to let the people decide," McClusky said in a statement.

The law was enacted by Congress in 1996, when it appeared Hawaii would soon legalize same-sex marriage and opponents worried that other states would be forced to recognize such marriages. The lawsuit challenges only the portion of the law that prevents the federal government from affording pension and other benefits to same-sex couples.

Since then, five states and the District of Columbia have legalized gay marriage.

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COMMENTARY. . .

by John Culhane

Should We Hate Civil Unions Or Love Them?

I ask this question shortly after the announcement by Hawaii Governor Linda Lingle that she had decided to veto the civil union bill that was passed by the legislature in late April.

With her body blocking the state seal – with its (loosely translated) motto of "The life of the land is perpetuated in righteousness" and its depiction of the Goddess of Liberty – Lingle issued the by-now boilerplate blather about letting the people, rather than the legislature, decide. It's as though she'd just been transported to a place where the rules of representative democracy had been suspended.

But I want to focus on something the governor said during her press conference: Civil unions are marriage 'by another name." Since she opposes same-sex marriages (she didn't say why), she also opposes civil unions.

So, are civil unions the same thing as marriage? Well, no. But they're much better than no relationship recognition at all. With a civil union, you get all of the tangible, quantifiable benefits of marriage that a state can confer. For some – even some gays, like collaborating conservative Jonathan Rauch – that's all that courts should require.

The civil union has been a marker for legislative ambivalence since its creation by the Vermont legislature a decade ago. Required by its state supreme court to do something to grant equality to its gay and lesbian couples, the legislature (and Gov. Howard Dean) took the easier of two tough paths and enacted the civil union law, which bears the scars of its own inconsistency: It confers all of the state rights of marriage on same-sex couples, but pointedly states that marriage remains the union of a man and a woman.

So how can it mean the same thing as marriage? Lingle might be right to say that civil unions are marriage "by another name," but names have weight. The word "marriage" is particularly totemic, as we can emphasize by this table-turning little experiment: Imagine a suggestion that same-sex couples' unions be called marriages, but that opposite-sex couples would be granted the right to enter into civil unions. Would anyone then really want to suggest that the name wasn't terribly important?

Perhaps nowhere was the importance of this distinction better understood and deconstructed than by the Massachusetts Supreme Judicial Court. Writing in response to the question whether the legislature might carry out the court's mandate of conferring marriage equality on same-sex couples by creating the civil union, the court said this of the proposed bill:

> [I]t is a considered choice of language that reflects a demonstrable assigning of same-sex, largely homosexual, couples to second-class status. The denomination of this difference…as merely a "squabble over the name to be used" so clearly misses the point that further discussion appears to be useless.

There's lots to quote from that Opinion of the Justices to the Senate, but the point is clear enough. Governor Lingle needn't have worried that civil unions would be seen by the electorate as marriage; they're not, and they're not intended to be. Dignity and equality could have safely remained compromised.

Civil unions also create confusion, as exhaustively demonstrated by commissions in both New Jersey and Vermont – states where the civil union has since either been scrapped in favor of marriage equality (Vermont) or is under judicial attack for not having delivered the equality a court decision promised (New Jersey).

These soulless, legal entities aren't meant to create true, full equality and the public knows it, somehow. The commission reports are replete with same-sex couples recounting comments directed to them along these lines: "Your civil union doesn't count."

It doesn't always matter that, under law, it should.

It's also lucky for those supporting civil unions as the equivalent of marriage that the Defense of Marriage Act exists. Without it, same-sex marriages in states that allow them would be recognized for federal purposes, while civil unions would not be.

But as it is, states that want to continue the second-class citizenship of same-sex couples can hide behind the fig leaf of civil unions, noting that they provide all of the same rights as marriage. If and when DOMA is repealed, civil unions will stand, naked, as both reality and symbol of the lesser status afforded our relationships.

Civil unions may well have been – and may, in some states, even continue to be – politically necessary compromises, way stations of a sort on the route to full marriage equality. But we should continue to point out that there's plenty in a name.

(John Culhane is Professor of Law and Director of the Health Law Institute at Widener University School of Law in Wilmington, Del. He blogs about the role of law in everyday life and other things at: http://wordinedgewise.org.)

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Presbyterians Continue To Be Divided Over Gays

MINNEAPOLIS (Observer Update) - A split decision from Presbyterian leaders on two gay-friendly measures guarantees even more debate among the U.S. church's members on an issue they've been divided over for years.

Delegates to the Presbyterian church's convention in Minneapolis voted Thursday for a more liberal policy on gay clergy but decided not to redefine marriage in their church constitution to include same-sex couples. Approval of both measures could have made the Presbyterian Church (U.S.A.) one of the most gay-friendly major Christian churches in the U.S.

Even the more liberal stance on gay clergy faces more debate before it can become church policy. A majority of the church's 173 U.S. presbyteries must approve it. Two years ago - after years of efforts by supporters - a similar measure was sent out to presbyteries but died when 94 of them voted against it.

Both of the votes were close. Fifty-one percent of delegates voted to shelve the proposal to redefine marriage as being between "two people" instead of between "a man and a woman," just hours after 53 percent of them voted to allow non-celibate gays in committed relationships to serve as clergy.

There is a slight possibility the delegates could take up the marriage proposal again Friday - if someone who voted to hold off on the matter moves to reconsider it, and supporters muster enough votes to approve another debate.

Shelving the marriage matter means church committees will spend the next two years reviewing the issue.

"We Presbyterians love to study, which is not a bad thing," said Cindy Bolbach, an elder at National Capital Presbytery in Washington and the assembly's elected moderator. "We're talking about some major new steps."

But supporters say Presbyterians have spent enough time mulling it over.

"I think we're seeing acts of desperation by those who feel their way of life is slipping away," the Rev. Ray Bagnuolo, the openly gay pastor of Janhus Presbyterian Church in New York City, said after the marriage vote. "Progress takes time. But to gay and lesbian people, it says their relationships, who they are, does not matter to this church. I don't call that Christian or loving."

Even some conservative Presbyterians were surprised by the fate of the marriage measure.

"I didn't see this turn of events coming," said Jerry Andrews, pastor of First Presbyterian Church in San Diego.

He said redefining marriage may have been one step too far for delegates who just hours earlier voted for the more liberal clergy policy.

"I think as the day went on, the mood became more conservative," Andrews said.

Presbyterian Church (U.S.A.) is ranked the 10th-largest church in the U.S. with 2.8 million members, according to the National Council of Churches' 2010 "Yearbook of American and Canadian Churches." The church's media materials tout 2.1 million members.

Under current church policy, Presbyterians are eligible to become clergy, deacons or elders only if they are married or celibate. The new policy would strike references to sexuality altogether in favor of candidates committed to "joyful submission to worship of Christ."

Several major Christian denominations have voted in recent years to allow non-celibate gays to serve as clergy if they are in committed relationships. Among them are the Evangelical Lutheran Church in America, the U.S. Episcopal Church and the United Church of Christ.

Fewer major U.S. denominations have taken the step of fully endorsing gay marriage. Only two, the United Church of Christ and the Unitarian Universalist Association of Congregations, have explicitly allowed it.

Delegates at the Presbyterian assembly also shelved a separate measure that would have removed the threat of punishment for clergy who perform same-sex marriages in states where it's legal.

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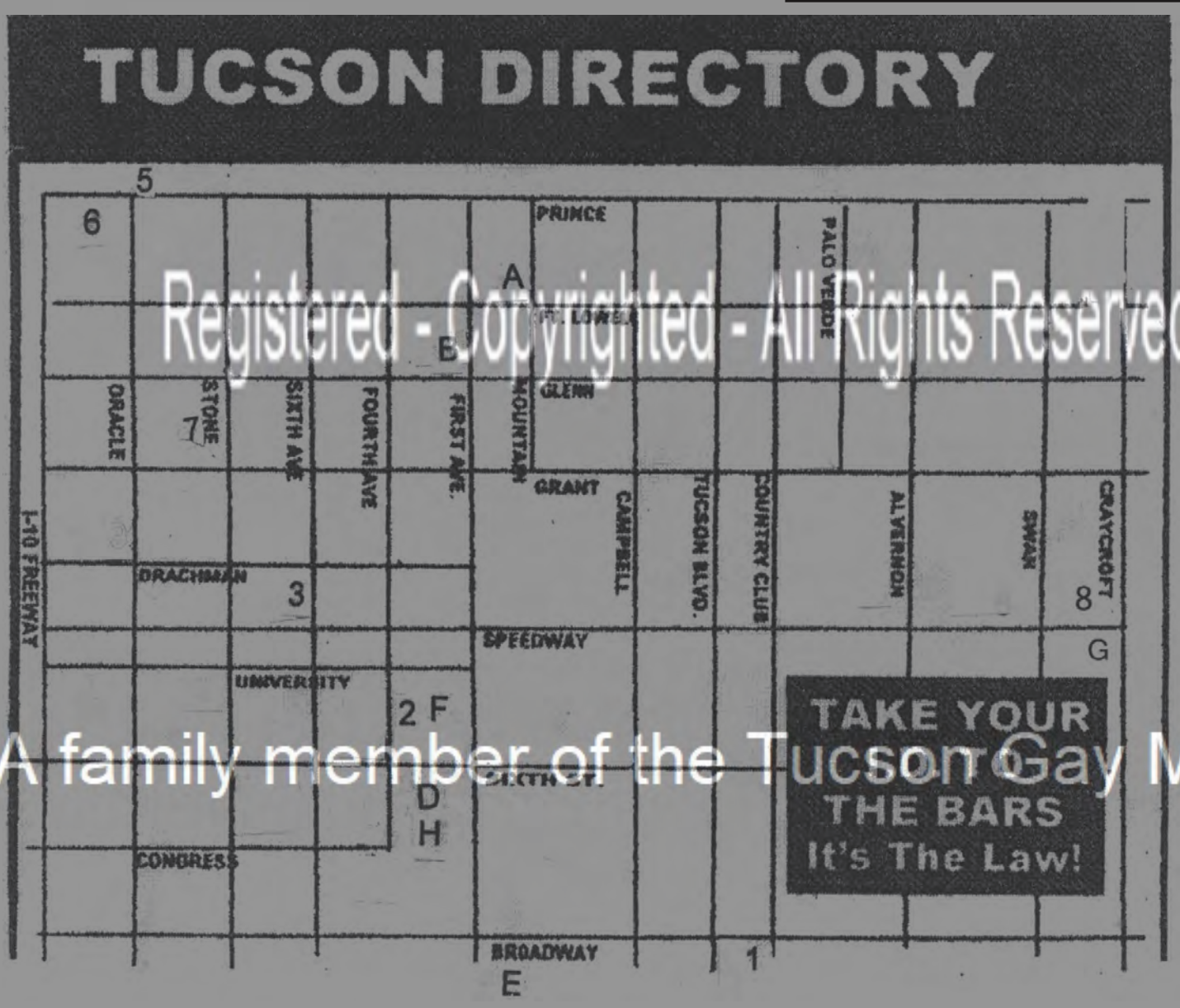

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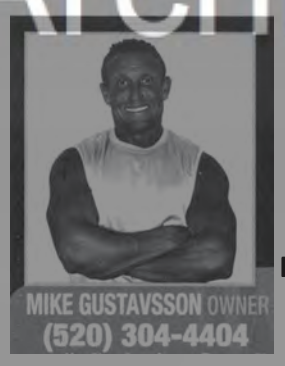

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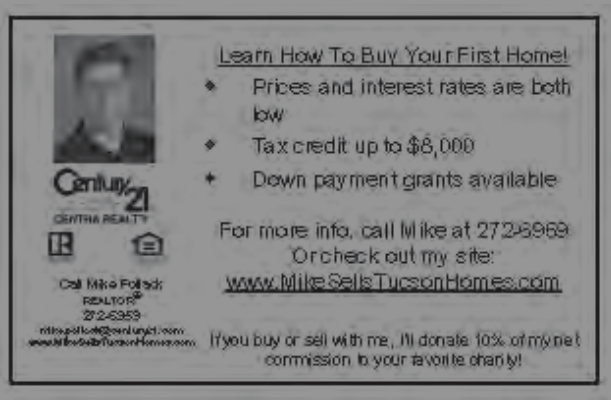

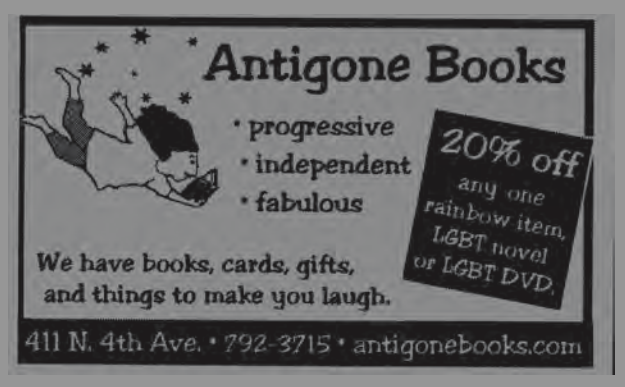

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At The Gary Clark Celebration Of Life Last Sunday PHOTOS by Amanda

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Poet's Corner

LADY GA GA

by Ron Rose - Tucson

Za Za would go Ha-Ha over GaGa
Two ladies too outrageous in their day.
Surely you can bet your last Madonna
That her fame will ean her lotsa pay.
Bette Midler from her bathhouse will applaud her
Her critics round the world will highly laude her.
Her music brings such joy to every queen,
Drag Queens love her and adore her
Why not, she dominates the Dominatrix scene.

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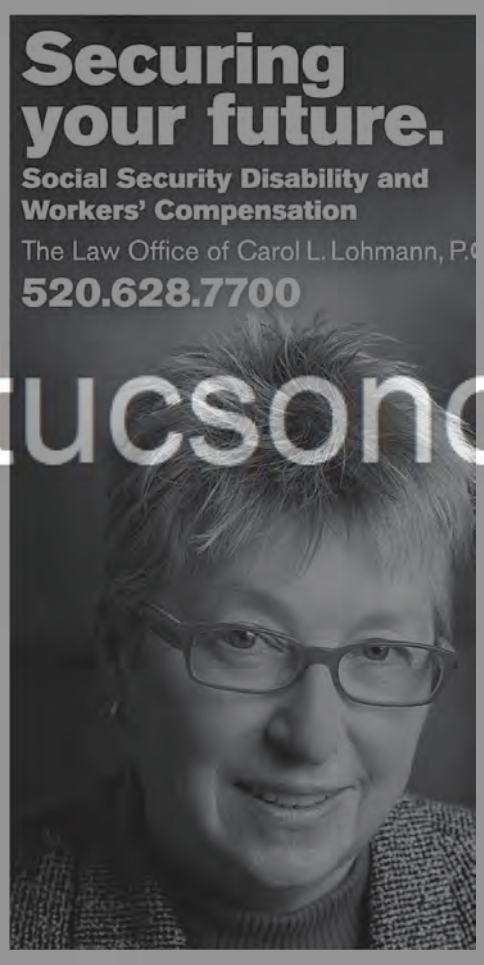

AIDS Vaccine A Step Closer

NEW YORK (Observer Update) - The possibility of a AIDS vaccine is a step closer this morning. United States government scientists have found three HIV antibodies, one that blocks 91 percent of HIV strains. The antibodies were found in the body of Donor 45, as the 60 year old black gay man is known in research circles. Scientists are now going to see if they can come up with a vaccine that will cause people to make the same.

"We're going to be at this for a while," said Gary Nabel, director of the Vaccine Research Center at the National Institute of Allergy and Infectious Diseases and leader of the research.

The results of this study were published in the online edition of Science, a little over a week before the International AIDS Conference in Vienna.

While this is good news it's too soon to be popping any bubbly. HIV is highly mutable and has proven effective at fighting previous vaccine attempts. Last year a Thailand trial was considered a failure because its efficiency rate was considered statistically insignificant.

It's important to remember that Donor 45's antibodies did not keep him from contracting HIV–he's still alive. He was living with the virus for 20 years before he was tested; it took some time for his body to produce the antibodies now being studied.

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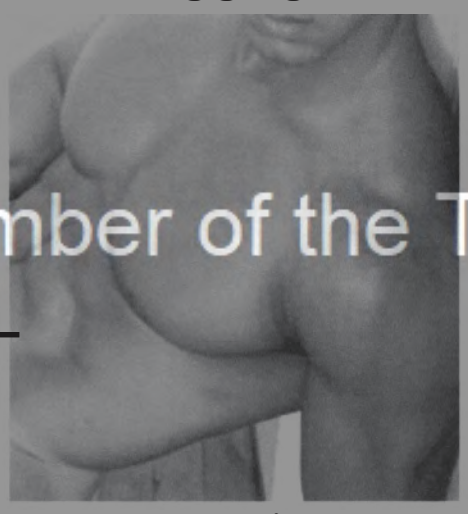

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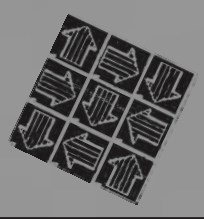

Melissa Etheridge's Ex Files For Full Custody

LOS ANGELES (Observer Update) - Tammy Lynn Michaels, best know for her role in the TV show "Popular," has filed for dissolution of marriage with singer Melissa Etheridge. The two became registered domestic partners in 2005 after a having an elaborate commitment ceremony in 2001. Michaels is asking for full legal and physical custody of their two children as well as spousal support, but would allow Etheridge visitation rights.

Etheridge previously filed papers to dissolve the couples nearly nine year domestic partnership on July 2. Her claim included joint custody of the couple's three-year-old twins and no spousal support.

According to her attorney Steve Knowles, "Tammy filed a dissolution of marriage, because in her eyes this was a marriage. Both she and Melissa gave it the dignity of a marriage - they had a marital ceremony back in 2001...If the court system says there was no such thing as a marriage and tells us we have to amend it to a domestic partnership, so be it. It's a symbolic act on Tammy's part..."

In her blog, Hollywood Farm Girl, Tammy Lynn Michaels attests that she was blind-sided by the divorce and that the decision was not mutual, as otherwise stated by Etheridge.

DAILY BAR CALENDAR

SUNDAY

THE BIZ - Open 5pm - 2am It's Latin Sunday like the good ol' days. Catch DJ Dmenace spinning the best Cumbias. Get your Bucket of Beer ... 5 Bud Bottles for $5!

COYOTE MOON PUB - Open 11am. Beer Bust Sunday - $1 draft beers (12 oz), domestic only; $2.25 domestic long necks. Hair of dog special $1.50 well bloody mary, screwdriver,,Cape Cod, salty dog or margarita.

IBT's - Open Noon. Happy Hour Noon-8pm $2 Well or Domestic Beer. Karaoke on the Patio 4-8:30pm. Burger BBQ 5-8pm + $1 pint draft. 9pm-close Karaoke inside with Troy & $1.50 Well or Domestic Beer, $2.50 Call or Premium Beer. DJ Hurricane on the Patio.

WOODY'S - Open 11am-2am. Peter's Build Your Own Bloody Mary Bar 11am-2pm. Happy Hour 11am-8pm (excluding special events). Full Menu Kitchen open 11am-8pm. Back Pocket Patio Bar 2pm-2am. Beer Bust 2pm-7pm. Karaoke with Michael D 9pm-Close. Drag Bingo every other Sunday 8-9pm. Check our Ad for Special Events or Parties

MONDAY

THE BIZ - Closed for employee training.

COYOTE MOON PUB - Open 3pm. Happy Hour 3 - 8 p.m. $2.50 well, domestic longnecks & pints. $3.50 sm. Pitcher/$5.50 lg. Bucket o" Beer - $10 Domestic, $12 Imports and microbrews (4 beers to a bucket, for 2 or more people, Some brands excluded).

IBT's -Open Noon. Happy Hour Noon-8pm $2 Well or Domestic Beer. 8pm-close $5 Scratch Long Island Varieties. 9pm-close DJ Hurricane with "All Request Music".

WOODY'S - Open 11am-2am. Happy Hour 11am--8pm (excl spec events) Full Menu Kitchen open 11am-10pm Back Pocket Patio Bar 8pm-close. Karaoke with Michael D. 9pm-close.

TUESDAY

THE BIZ - Open 5pm-2am. Happy Hour 5-8 and Game Night all night long. Play Wii, beer pong and pool with the staff.

COYOTE MOON PUB - Open 3pm. Happy Hour 3-8. $2.50 well, domestic longnecks & pints. Girlz Nite .75 for your favorite well drink or domestic drafts 6-8pm. Ladies only Texas Hold 'Em Poker 6 p.m. Y-Not Karaoke with Anna at 8pm. - Drink specials during karaoke $1 Michelob Ultra or Bud Light.

IBT's - Open Noon. Happy Hour Noon-8pm, $2 Well or Domestic Beer. 8pm-close "2'sDay" - $2 Well or Domestic Beer. DJ Q 9pm-close.

WOODY'S - Open 11am- 2am. Happy Hour 11am-8pm (excl spec events). Full Menu Kitchen open 11am-10pm. Back Pocket Patio Bar open 8pm-close, Caribbean Party Night with Woody's own Specialty Mojitos, Caprioskas and Martinis with Tucson's Hottest Bartenders.

WEDNESDAY

THE BIZ - Open 5pm-2am. Happy Hour 5-8pm. Wild Wednesday 18+ Party with DJ White Shadow spinning the hottest Hip Hop, R&B and top 40 remix dance of today. 21+ NO COVER. 18+ $8 Cover.

COLORS - Open 4-10pm. Happy Hour 4-7pm, $3.75 Skyy cocktails, $3.00 Domestics and Well. ½ price appetizers 4-6. Full menu served until 10pm. Nightly dinner specials.

COYOTE MOON PUB -Open 3pm. Happy Hour All Day $2.50 well, domestic longnecks & pints, $3.50 sm. Pitcher/$5.50 lg. Pitchers. Boyz Night - .75 for your favorite well drink or domestic draft beer for men 6-8pm. Karaoke with Anna at 8pm drink specials during karaoke $1 Michelob Ultra or Bud Light..

IBT's - Open Noon. Happy Hour Noon-8pm, $2 Well or Domestics. "Diva-Licious" show w/Bunny FuFu. 11pm - -close "Reverse Happy Hour". DJ Q Inside & DJ Mike Lopez playing 80s music on the Patio.

WOODY'S - Open 11am-2am;. Happy Hour 11am-8pm excl. special events). Ful Kitchen open 11am-10pm. Back Pocket Bar open 8pm-close. Service Industry Employee Special All Day Long - $1 off all drinks except schnapps and draft. Different Themed Underwear Party 9pm-close with $1.00 off for those who participate (excl. Schnapps and Draft). Retro 80s & 90s Dance with DJ Clint 9 til close..

THURSDAY

THE BIZ - Open 5pm-2am. Happy Hour 5-8pm. Y-NOT Karaoke 9pm-2am with Meco pouring the best drinks in town. Come out and play.

COYOTE MOON PUB - Open 3pm. Happy Hour 3 - 8 pm, $2.50 well, domestic longnecks & pints, $3.50 sm. Pitcher/$5.50 lg. Pitcher. Latin Thursday: Latin music 8pm to close. $2,50 well margaritas. $3 Mexican beers, $3.50 Jose Cuervo.

IBT's -Open Noon. Happy Hour Noon-8pm, $2 Well or Domestics. 10pm-close "Boyz Nite Out" w/ Bartenders in their underwear. DJ Hurricane spinning Top 40 & DJ Mike Lopez on the patio. $1.75 Long Island, $1.50 Tequila Shots, $3 Skyy Cape Cods and $4 Skyy Cosmos.

WOODY'S - Open 11am-2am; Happy Hour 11am-8pm (excl Spec Events); Full Menu Kitchen open 11am-10pm. Back Pocket Patio Bar open 8pm-close. Cheap Party Day **FREE POOL**, $1.00 PBR Longnecks, $2.00 Tecate Longnecks. Techno and Top 40 Dance with DJ Jeff 9pm - close..

FRIDAY

THE BIZ - Open 5pm-2am. Happy Hour 5-8 pm. GoGo Fridays with 2-4-1 drinks for the ladies til midnight. Catch Shorty spinning the hottest Hip Hop, R&B and Top 40 remix dance of today.

COYOTE MOON PUB - Open 3pm. Happy Hour 3 - 8 pm, $2.50 well, domestic longnecks & pints. $3.50 Sm. Pitcher/$5.50 lg. Pitcher. Shots shot specials 8-close.. Dance lessons with Lawrence at 7pm $5 per person, Country Dancing 8:30 p.m. to close with DJ Pat.

IBT's - Open Noon. Happy Hour Noon-8pm, $2 Well or Domestics. 9pm -close DJ Hurricane inside. 10pm-close DJ Mike Lopez with "I'm a Sexy Bitch Night" on the patio.

WOODY'S - Open 11am-2am; Happy Hour 11am-8pm (excl spec events). Full Menu Kitchen open 11am-11pm Back Pocket Patio Bar open 5pm-close. Enjoy the Live Blues/Motown/Soul sounds of Simon Crown 6-9 p.m.; Request your favorite Music Dance Night with DJ Clint 9pm-close. Monthly Birthday Party every 2nd Friday Night of the month.

SATURDAY

THE BIZ - Open 5pm - 2am. Latin night with Latin Drag Show the 1st, 3rd and 4th Saturdays of the month. DJ Dmenace spinnin' the best Cumbias, Salsa & Merengue. $3 pitchers and $2 Tequila shotz all night long!

COYOTE MOON PUB - Open at 2pm. Happy Hour 2-8pm, $2.50 well, domestic longnecks & pints. $3.50 sm. Pitcher/$5.50 lg. Plus check out the bartenders choice of shot specials. $5.00 cheese-burger & fries. $3.00 Cuervo and $4.75 Jager Bombs. Check our calendar for the Saturday Night Special Entertainment.

IBT's - Open Noon. Happy Hour Noon-8pm, $2 Well or Domestics. 5-8pm Karaoke on the patio $1Draft Pints. 9pm "Saturday Starrlett's" w/Bunny FuFu & Janee Starr. After the show, DJ Q spinning inside & 10pm-close, DJ Mike Lopez with the "Party on the Patio".

WOODY'S - Open 11am-2am; Happy Hour 10am-8pm (excl spec events); Full Menu Kitchen open11am-11pm. Back Pocket Patio Bar open 5pm-close. Techno and Top 40 Dance with DJ Jeff 9pm til close. Check our ad for Twice-A-Month Special Events or Themed Parties.

Bar Specials

SATURDAY, JULY 17

WOODY'S - The 'Wett Party' featuring Steven Daigle, male entertainer /Star of Big Brother. Emcee: Mandi Boom Boom and featurjg male strippers, drink specials and give-aways.. The evening's festivities begin at 9.p.m. and runs until 2 a.m Live performances by Steven Daigle are at 10:30 and 12:30. Come early and stay late!!! $5.00 Cover.

SATURDAY, JULY 24

COYOTE MOON PUB - Tea Dance from 4:00 to 8:00 p.m. with DJ Sparky

COYOTE MOON PUB - Veroniica's Closet show begins at 10:00 p.m. with Veroniica Chase and Friends.

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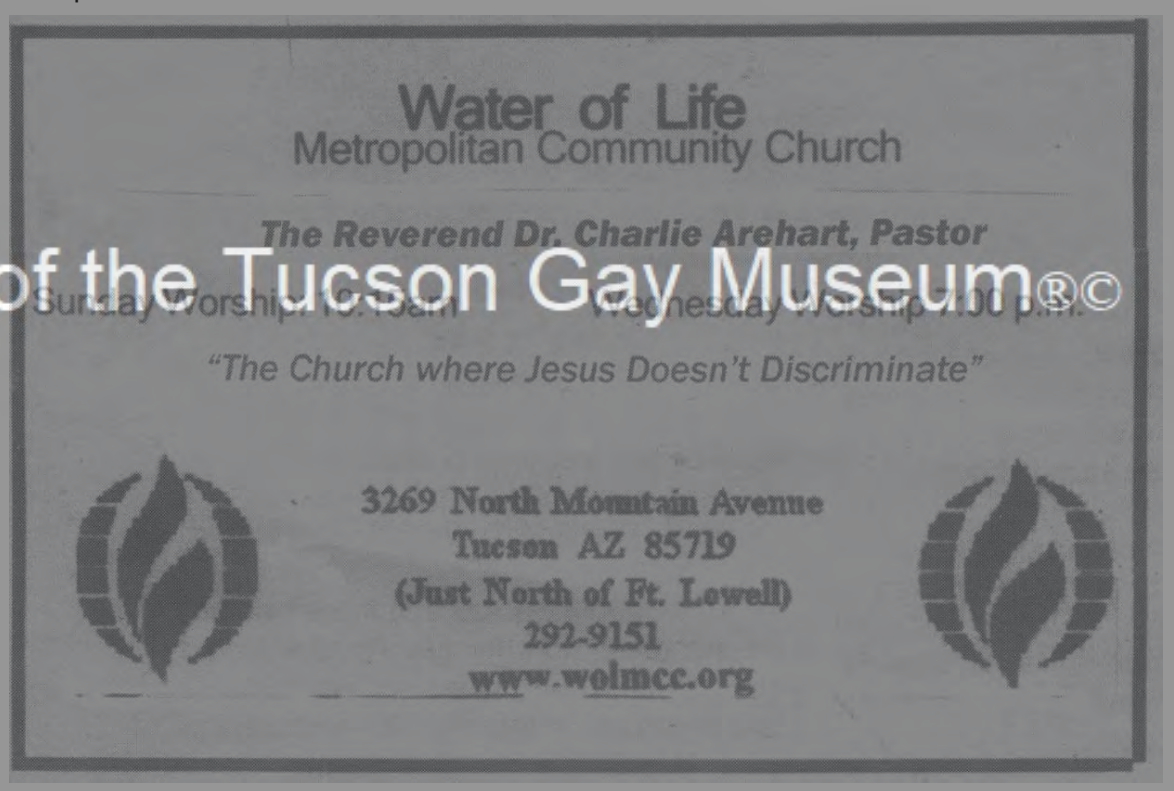

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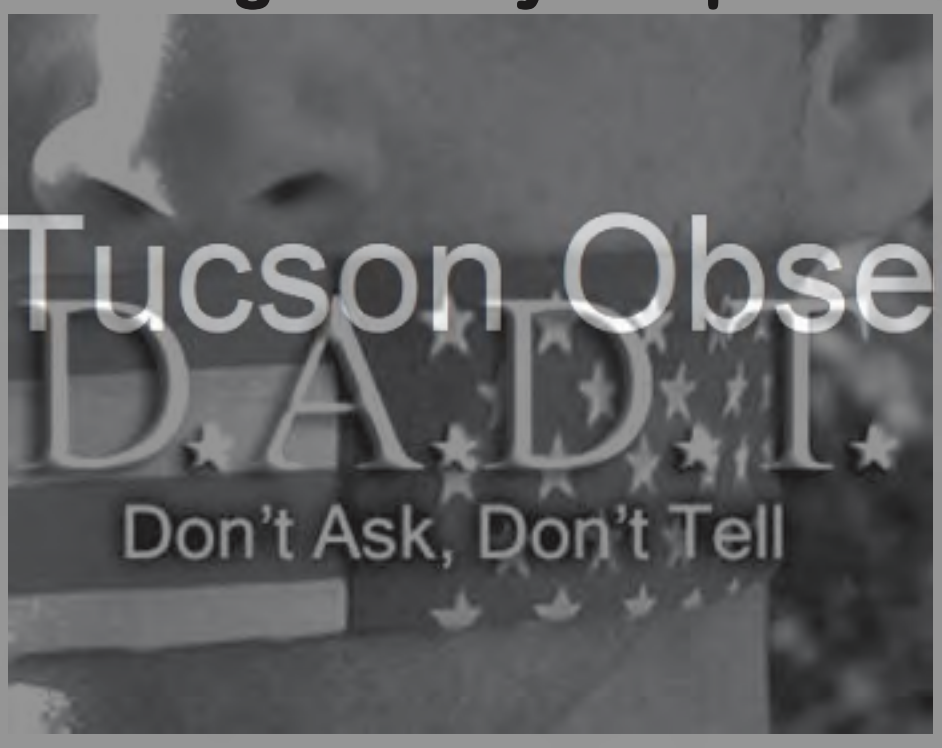
Pentagon Rejects Claim DADT Survey Biased Against Gay Troops



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WASHINGTON, D.C. (Observer Update) On Top Magazine reports that the Pentagon hit back Friday at accusations that its "Don't Ask, Don't Tell" survey is biased against gay troops.

Pentagon spokesman Geoff Morrell rejected the accusations in a call with reporters.

"Absolutely, unequivocally, I reject [the accusations of bias] as nonsense," Morrell said.

Leading groups lobbying for repeal of the policy that forbids gay troops from serving openly had blasted the $4.5 million survey as "insulting" and "derogatory."

"This expensive survey stokes the fires of homophobia by its very design and will only make the Pentagon responsibility to subdue homophobia as part of this inevitable policy change even harder," Alexander Nicholson, executive director of Servicemembers United, said on the group's website.

The Department of Defense announced that it was recruiting 400,000 service members to answer 103 questions related to the policy, including how heterosexual members would react in various social situations if gay troops were visible.

"We think it would be irresponsible to conduct a survey that didn't address these kinds of [social] questions," Morrell said.

Gay groups have blasted questions that ask service members how they feel about sharing bathing facilities and living quarters with gay men and lesbians.

For example, one question asks how a service member would react if he or she was asked to share showering facilities with someone believed to be gay or lesbian during a wartime situation. Responses range from take no action to discussing how service members are expected to behave in such situations and speaking to a leader or chaplain about other options. Critics say the question suggests gay troops need to be lectured to.

Other problems, critics say, include the survey's use of the outmoded word "homosexual" to describe gay men and lesbians, and its overwhelming focus on the potential drawbacks of repeal.

Morrell conceded that the word "homosexual" has a negative connotation but defended its use.

"We are well aware that 'homosexual' is a loaded term, but it is a term that is in the law and policy," he said in answering a question from gay glossy The Advocate. "And it is a term that most people in our forces are familiar with."

The Servicemembers Legal Defense Network (SLDN), the nation's largest group lobbying for repeal, warned that gay and lesbian personnel could be placing themselves at risk of violating the policy by taking the survey.

"At this time, our warning stands that gay and lesbian service members should not take the survey unless adequate legal protections are put in place," Aubrey Sarvis, executive director of SLDN, said.

Sarvis joined in criticizing the survey as biased.

"No one should be surprised if a number of prejudices come to light in these surveys," he said.

The survey is part of the military's comprehensive review of "Don't Ask, Don't Tell," the law approved by Congress and signed by President Bill Clinton in 1993. Under a last-minute deal brokered by gay groups and Democratic leaders, the review will continue even as Congress debates repeal of the law.

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