

Trump Justice Department: Corporations can fire employees based on sexual orientation

Eric London
28 July 2017

The Trump administration's Department of Justice filed court papers Wednesday night arguing that Title VII of the Civil Rights Act of 1964 does not protect homosexual people from being fired from their private sector jobs because of their sexual orientation.

The move marks a significant attack on the rights of gays and lesbians. By allowing businesses to fire LGBT workers, the Trump administration seeks to reestablish their legal status as second-class citizens. The Department of Justice brief advances the pseudo-legal argument that anti-gay discrimination is legal as long as the corporation equally discriminates against homosexual men and women.

The Department of Justice position is a departure from the official stance of the Obama administration. While billing itself as a defender of LGBT rights, the Democratic Party's muted response to the Justice Department move reveals the right-wing character of its pseudo-populist "Better Deal" agenda rolled out earlier this week.

The Justice Department's unusual decision to file a "friend of the court" brief in a private discrimination lawsuit to which the government is not a party is part of the Trump administration's efforts to whip up bigoted and homophobic elements to distract from the escalating crisis within the White House.

Trump's maneuver takes place as the Democratic Party continues to escalate its anti-Russia campaign, the purpose of which is to force Trump to take a more aggressive position against Russia at the risk of bringing the two nuclear powers to war.

The move came the same day as Trump tweeted that he would ban transgender people from the military. Amid a climate of crisis and disorder, key cabinet members like Secretary of State Rex Tillerson and Defense Secretary James Mattis have left Washington,

ostensibly on "vacation," while Trump continues to attack his own Attorney General, Jefferson Sessions, on a daily basis.

The discrimination lawsuit involves a New York skydiving instructor who was fired in 2010 after telling a female client he was gay in an attempt to avoid making her uncomfortable during their tandem jump. His employer fired him upon learning his sexual preference.

By advancing the position that private employers can fire employees for their orientation, the Trump administration is attempting to undo the legal effects of a 2015 order by the Equal Employment Opportunity Commission barring such discrimination. Earlier this year, the Seventh Circuit Court of Appeals ruled in *Hively v. Ivy Tech* that private employment discrimination against LGBT people is illegal in a decision widely considered to be a turning point in civil rights statutory interpretation.

The Democratic Party set the stage for Trump's assault on the fundamental democratic rights of LGBT people by announcing their "Better Deal" program earlier this week. Absent from the program is any mention of the rights of immigrants, LGBT people, or the right of women to abortion.

Democratic Minority Whip Steny Hoyer (Maryland) told reporters recently that social issues like the rights of LGBT people "won't be the focus" of the party's new agenda. "Essentially what we don't want to do is distract people... We don't want to distract ourselves."

These lines explode the claim that the Democratic Party can be depended on to defend even the most basic democratic rights, including for LGBT people, even after last year's presidential campaign, in which the party's strategy was based entirely on appealing to questions of identity politics while ignoring the

fundamental issue of social inequality.

Politico noted that Senate Minority Leader Charles Schumer (New York) acknowledged their program “purposefully avoids the social issues.”

Democrat Chris Van Hollen (Maryland), who leads the Democrats’ 2018 senate campaign, said the party is aimed at appealing to voters in “places Trump won.” Politico commented that “the decision to downplay social issues is remarkable,” and is bound up with the party’s effort to “appeal to center-right voters who may be open to Democrats’ populist economic pitch but turned off by their liberal social plank.”

The “Better Deal” program’s economic elements are themselves right wing. The platform includes massive tax cuts for corporations, ostensibly for “job training” purposes, and is based on what Democratic Senator Elizabeth Warren (Massachusetts) called “pro-market” reforms. In words that could have been taken from the playbook of Trump’s fascistic adviser Steven Bannon, the plan calls for enforcement of anti-trust laws and includes an appeal to American economic nationalism through a pledge to “aggressively crack down on unfair foreign trade.”

Several Democratic congressional representatives have expressed concerns about the absence of social issues in the “better deal” program. There are fears within the Democratic Party over the political implications of allowing the Trump administration to carry out its attacks on the rights of LGBT people, especially as Americans now overwhelmingly support the equal rights of gays and lesbians.

Aware of this emerging division, the Trump administration’s offensive is aimed at creating divisions within the Democratic Party, as an anonymous official acknowledged to Axiom News. The Trump administration is counting on the fact that significant sections of the Democratic leadership are adapting themselves to his reactionary provocations in order to avoid “distracting” people from their toothless economic program.

In the absence of a mass movement of the working class, none of the social gains of the last century are set in stone.

Less than a decade ago, the Democratic Party was united in its opposition to gay marriage. Hillary Clinton only announced her support for gay marriage in 2013, and had previously stated her belief that “marriage has

always been between a man and a woman.” Obama was opposed to gay marriage until the 2012 election, when he “changed his mind” in order to attract support for his re-election campaign, noting in 2004: “What I believe is that marriage is between a man and a woman ... I don’t think marriage is a civil right.”



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact