

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

OCT -9 P 2:47
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

Caleb Michael Laieski



Plaintiff,

v.

The United States Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993
1-888-463-6332

Defendant.

Civil Action No.

1:14CV1336
JCC/TRJ

COMPLAINT
(Targeting a Single Class of Citizens; Violation of
Constitutional Rights; Negligent in Protecting Sick
Families; Violation of Medical Privacy and Donor
Rights)

COMPLAINT:

Background:

1. The defendant's policy state that "Men who have had sex with other men at any time since 1977 (the beginning of the AIDS epidemic in the United States) are currently deferred as blood donors." Their ban also continues to state that "this is because men who have had sex with men are, as a group, at increased risk for HIV, hepatitis B and certain other infections that can be transmitted by transfusion."
2. The defendant's ban was enacted in 1985 when HIV was newly discovered and no one knew much about the virus.
3. The defendant's ban on gay and bisexual men from donating blood has personally affected myself and hundreds of thousands of other gay and bisexual men throughout the country. We simply want the right to donate blood and save someone's life.

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The Facts, Science and Impact:

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1. Nearly 912,000 people are on the national waiting list for lifesaving internal organs.
2. A recent study shows that the "gay ban" costs hospitals 219,000 pints of blood each year.
3. The American Blood Centers, American Red Cross, American Medical Association, several Members of Congress and thousands of organizations and citizens are opposed to the defendant's ban.
4. The American Red Cross reported in 2014 that every two seconds someone in the United States needs blood and each blood donation has the potential to be used in-life saving procedures on three individuals.
5. A study by the American Red Cross also estimates that lifting the blood donation ban could be used to help save the lives of more than 1.8 million people.
6. Medical professionals, doctors and scientists have pointed out that the Human Immunodeficiency Virus (HIV) and Sexually Transmitted Diseases (STD's) exists in every community and everyone is a potential risk.
7. The Food and Drug Administration tests all of their donations to ensure it is safe for the receiving party.
8. The American Red Cross "performs laboratory tests for multiple infectious disease markers on every unit of donated blood. Tests are upgraded or replaced with more sensitive technologies as these become available." These tests include screening for Chagas disease, Hepatitis B and C virus, HIV 1 and 2, Human T-Lymphotropic virus, Syphilis and the West Nile virus.
9. A report from 2011 by The Williams Institute estimates more than 8 million adults in the United States are lesbian, gay, or bisexual. Which is around 3.5% of the adult population
10. At least 8 million gay and bisexual citizens are being denied the opportunity to donate blood because of the defendant's ban.

Targeting a Single Class of Citizens:

1. Citizens and donors are being singled out due to their sexual orientation.
2. The federal government should not be discriminating against a class of citizens based on their sexual orientation and this policy does single out the gay community.
 - a. The defendant's ban was enacted in 1985 and it is outdated.
 - b. Blood donations are already screened and analyzed for safety purposes, so there is no reason that gay and bisexual men should be banned from the right to donate and help save someone's life.
 - c. The United States Supreme Court has ruled that singling out a group of citizens is unconstitutional and unacceptable. I feel that the following cases; Romer v. Evans (1996), Lawrence v. Texas (2003), Christian Legal Society v. Martinez (2010), Loving v. Virginia 1967 and United States v. Windsor (2013) are related to this matter and they all have the same ruling in common -- you cannot single out a certain class of citizens.
 - d. In Lawrence v. Texas, The Honorable Justice Kennedy said "They knew times could blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress. As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom."
3. The defendant claims that there "HIV tests currently in use are highly accurate" and again, all blood donations are tested prior to being given to the recipient. So the question is then, why would the defendant continue to stand behind their ban?
4. The defendant's policy is discriminatory and stereotyping by painting the picture that all men that have sex with men are HIV positive and sick.

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Violation of Constitutional Rights:

1. The defendant's policy is targeting and singling out a class of people based on sexual orientation. This ban is directed at a class of citizens and therefore is discriminatory.
2. The defendant's policy is in violation of Amendment 14, as a person that is sick and in need of blood or an organ transplant is being deprived the opportunity to life, liberty and the pursuit of happiness, as well as the opportunity to live. Even though people are ready to help and without the critical donation that could save their life, the defendant still refuses to overturn their ban.
3. Title VI of the Civil Rights Act prohibits discrimination in federally funded programs, which blood donations are accepted from federally funded programs, hospitals and organizations.

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Negligent in Protecting Sick Families:

1. The defendant is negligent in helping sick families that are in critical condition and in need of blood and/or a lifesaving organ, as several people are still on a waiting list and become even more ill or even die without receiving the assistance they are waiting for.
2. The defendant's policy prohibits gay and bisexual men from the right to donate blood and essential internal organs when hundreds of thousands of people are on a waiting list and are ready to give and help someone in need.
3. Kathleen Sebelius who was Secretary of the United States Department of Human and Health Services until mid-2014, released a statement stating that "Our current policies turn away healthy, willing donors, even when we face serious blood shortages. Further, the existing lifetime ban continues to perpetuate inaccurate stereotypes against gay and bisexual men, and fosters an atmosphere that promotes discrimination."

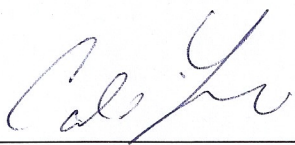
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Violation of Medical and Donor Privacy:

1. The defendant requires that men who have had sex with other men disclose their medical information and sex life, however if you are heterosexual and/or have had multiple partners, you are not questioned or required to disclose that information.

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Conclusion:

1. The defendant's policy banning gay and bisexual men from donating blood and internal organs, is discriminatory and in violation of gay and bisexual men's constitutional rights.
2. The defendant has an outdated policy that is singling out citizens, costing lives and putting children, elderly and families at risk.
3. The defendant's policy focuses on sexual orientation, rather than the actual risk and science.
4. The defendant screens and tests all blood that is donated prior to giving it to the receiving party and based on several studies and science, the defendant's ban is unnecessary and singling out a group of people.
5. The former Secretary of Human and Health Services even acknowledged that their ban is promoting discrimination and stereotypes while she was in office.

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DATED this 9th day of October, 2014.

By 
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