

Remembering Aimee Stephens, Who Lost and Found Her Purpose

The woman at the center of the first transgender-rights case to come before the Supreme Court died before a decision was handed down.

By Masha Gessen The New Yorker May 20, 2020

Before I saw Aimee Stephens, on October 8, 2019, I heard applause and chanting: “We love you, Aimee! Ai-mee! Ai-mee!” I couldn’t yet see Stephens herself: she was in a wheelchair that her wife, Donna, was pushing, and a gaggle of lawyers obscured my view. We were in the plaza in front of the Supreme Court, which had just heard the first transgender-rights case in its history. Stephens was the person at the center of this case, and this was why hundreds of activists were now chanting her name and their gratitude. Stephens, dressed in a tailored black skirt suit and a white blouse, was beaming.

Stephens died last week, at the age of fifty-nine, following a long illness. Jay Kaplan, her lawyer at the American Civil Liberties Union of Michigan, told me that Stephens, who entered hospice care at the end of April, had fervently hoped to live to hear the Supreme Court decision in her case. She did not: the decision may come down anytime in the next six weeks.

There was a significance to Stephens’s outfit on the day of the hearing. These were the clothes that she would have worn to her job as a funeral director if she had not been fired six years earlier, when she came out to her employer as transgender. Stephens wrote about this in her coming-out letter to her employer and co-workers: “I intend to have sex reassignment surgery. The first step I must take is to live and work full-time as a woman for one year. At the end of my vacation on August 26, 2013, I will return to work as my true self, Aimee Australia Stephens, in appropriate business attire.”

Stephens, who was born and grew up in North Carolina, was assigned male at birth and lived as a man well into her late forties. But, when she was a child, she thought of herself as a girl, and, with time, the struggle between her sense of self and the life she was leading as a married man and a professional man became intolerable. Her marriage had become strained when she came out to her wife, Donna, in 2009. For the next few years, Stephens lived as a woman at home and a man at work, and this, too, proved untenable. One day, she found herself standing in the back yard, a gun in her hand, planning to take her own life. Then, as she often told people in interviews and public speeches, she decided that she liked herself too much to stop living. She commenced a months-long process of composing her coming-out letter. “I have known many of you for some time now, and I count you all as my friends,” it began:

What I must tell you is very difficult for me and is taking all the courage I can muster. . . . I have a gender identity disorder that I have struggled with my entire life. I have managed to hide it very well all these years. . . . With the support of my loving wife, I have decided to become the person that my mind already is. . . . I realize that some of you may have trouble understanding this. In truth, I have had to live with it every day of my life and even I do not fully understand it myself. . . . As distressing as this is sure to be to my friends and some of my family, I need to do this for myself and for my own peace of mind and to end the agony in my soul. . . . It is my wish that I can continue to work at R.G. & G.R. Harris Funeral Home doing what I have always done, which is my best!

Stephens’s employer, Thomas Rost, responded with a letter of his own: a separation agreement and an offer of a severance package contingent on Stephens agreeing to stay quiet. Stephens rejected the offer and called the Michigan A.C.L.U. instead. The A.C.L.U. referred her to the Equal Employment Opportunity Commission, which took the case to federal court. Stephens lost her case but then won on appeal, in the circuit court. Then her former employer appealed. In the meantime, Stephens could not find work. Kaplan told me that she tried a variety of funeral homes in the Detroit area, but, despite her years of experience, no one would hire her.

Stephens retrained as a medical assistant and found a job, but by this time her health, undermined by a period of time without health insurance, deteriorated so badly that she could no longer work.

By the time the case reached the Supreme Court, the federal government had switched positions. Instead of arguing what had been the E.E.O.C.'s position—that Stephens's firing constituted discrimination "because of sex," which is prohibited by the Civil Rights Act of 1964—the Justice Department claimed that it is legal to discriminate against people because they are transgender.

Speaking at the Supreme Court, the A.C.L.U. lawyer David Cole argued that what happened to Stephens could be viewed as sex discrimination no matter how one perceived her: as a man who presents himself in an insufficiently masculine manner (by dressing as a woman), or as a woman who is somehow insufficiently female. This line of argument, which treats transgender identity as somehow conditional, was painful for a lot of trans people to hear. If it was painful for Stephens, she did not let on. "Being the center of a massive legal case, you don't necessarily feel seen in every aspect of how the court contends with your case," the A.C.L.U. attorney Chase Strangio, who worked on the case, said, speaking about Stephens. "But you feel that you are pushing the boundary of what the law can do."

Kaplan told me that Stephens had found a great sense of purpose in her job, in the role of someone who comforts families in grief, and that losing it had been devastating. She found purpose again, Kaplan said, in fighting to insure that what happened to her would not happen to transgender people who came after her. She also became a media spokesperson, granting interviews even as her health failed and she had to undergo dialysis three times a week. She told her story over and over, and answered the same inane questions, such as, "Aimee, what's your message to Americans who don't understand what it means to be transgender and may struggle with employees like yourself in their own workplace?" (This was asked by an ABC reporter on the eve of the Supreme Court hearing; imagine that phrasing applied to any other social group.)

The day before the hearing, Stephens gave media interviews until she was utterly depleted, Kaplan said. The next day, Strangio said, she was sick in the morning but energized after the hearing, because of "the experience of being a force for change." Whatever the Supreme Court decides, Stephens will be remembered as a civil-rights hero. But it is perhaps more important that she be remembered as someone whose life was shorter and much harder than it should have been.

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Aimee Stephens won her case on June 15, 2020 in a decision that was even more crucial in showing that Justices Roberts and Gorsuch would replace the retired Justice Kennedy in solidifying the pro-LGBT coalition on the Supreme Court. - Cary