



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Civil Rights Unit
800 Fifth Avenue • Suite 2000 • MS TB 14 • Seattle WA 98104
(206) 442-4492

August 13, 2018

Molly C. Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: *Karnoski v. Trump*, No. 18-35347 (calendared for argument Oct. 10, 2018)

Dear Ms. Dwyer:

On August 3, 2018, Defendants-Appellants submitted a Federal Rule of Appellate Procedure 28(j) letter alerting the Court to the recent opinion issued in *City and County of San Francisco v. Trump*, --- F.3d ----, 2018 WL 3637911 (9th Cir. Aug 1, 2018). Contrary to Defendants-Appellants' characterization of the opinion, *City and County of San Francisco v. Trump* does not undermine the District Court's preliminary injunction that bars Defendants-Appellants from implementing their discriminatory ban on open military service by transgender individuals. Instead, *City and County of San Francisco* reaffirmed that nationwide injunctions are appropriate when "necessary to give Plaintiffs a full expression of their rights." *Id.* (quoting *Hawaii v. Trump*, 878 F.3d 662, 701 (9th Cir. 2017)). In doing so, this Court noted that "an injunction is not necessarily made overbroad by extending benefit or protection to persons other than prevailing parties . . . if such breadth is necessary to given prevailing parties the relief to which they are entitled." *Id.* (quoting *Bresgal v. Brock*, 843 F.2d 1163, 1170-71 (9th Cir. 1987)).

Here, military-wide injunctive relief is appropriate and necessary to protect transgender Washingtonians who serve in the military – or who will join during the

ATTORNEY GENERAL OF WASHINGTON

Molly C. Dwyer
August 13, 2018
Page 2

pendency of this litigation – as they may be deployed to locations across the United States and around the world. Broad injunctive relief is needed to ensure that these service members are not subject to a discriminatory policy that unlawfully infringes on equal protection and substantive due process guarantees. As such, the District Court did not err when it issued its injunction to protect the status quo and bar Defendants-Appellants from implementing a discriminatory ban. Nor did not err when it denied Defendants-Appellants' request to dissolve the injunction or to limit it to the geographic boundaries of Washington State. *See* Washington's Answering Br. at 39-40.

Respectfully Submitted,

s/ La Rond Baker

LA ROND BAKER, WSBA No. 43610
COLLEEN MELODY, WSBA No. 42275

Assistant Attorneys General

ALAN D. COPSEY, WSBA 23305

Deputy Solicitor General

Washington State Attorney General

800 Fifth Ave, Suite 2000

Seattle, WA 98104

(206) 516-2999

LaRondB@atg.wa.gov

cc: all counsel
(via CM/ECF)

ATTORNEY GENERAL OF WASHINGTON

Molly C. Dwyer
August 13, 2018
Page 3

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2018, I electronically filed the foregoing document with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit using the CM/ECF system. Service of such filing will be accomplished by the CM/ECF system upon all participants.

s/ La Rond Baker

LA ROND BAKER, WSBA No. 43610