

Transgender man to sue barbershop that denied service for 'religious' reason

US army sergeant who identifies as a transgender man describes refusal of service at a California barbershop by the owner, who said he didn't serve 'women'

Sam Levin in San Francisco

Sunday 13 March 2016 09.21 EDT

A California transgender man plans to take legal action against a barbershop after the owner refused to give the customer a haircut, stating that he only serves “men” due to his religious beliefs.

Kendall Oliver - a US army sergeant who identifies as a transgender man and uses the gender-neutral pronoun “they” - said a business called The Barbershop in Rancho Cucamonga in southern California refused to give them a haircut this week, saying the shop doesn't offer cuts to “women”.

Oliver said the rejection was painful and insulting to LGBT people, and legal experts say the denial of service was also a clear violation of California anti-discrimination laws.

“It did hurt my feelings, and I don't want anyone else to experience that,” said Oliver, 24, who lives nearby in Mira Loma, which is about 50 miles east of Los Angeles. “There is a separation of church and state. And if you have a public business, then everyone in the public should be entitled to access those services.”

The owner of the barbershop, Richard Hernandez, did not dispute the central facts of Oliver's account, though he argued that the patron did not make it clear to him that they identify as a transgender man.

“We're definitely not targeting the LGBT movement,” said Hernandez, who in a brief phone interview repeatedly referred to Oliver as a “woman”, using the “she” pronoun. “We simply don't cut women's hair. It's a traditional men's barbershop.”

The dispute and potential legal battle is the latest in a series of high-profile cases across the US surrounding the rights of LGBT people to access services from private businesses, with a number of conservative Christian shop owners arguing in court that their religions give them the right to turn away queer customers.

“Most courts have rejected attempts to use religion as an excuse to discriminate,” said Gregory Lipper, senior litigation counsel with Americans United for Separation of Church

and State, a legal not-for-profit organization that reached out to Oliver after their story appeared in local TV news reports. “The question isn’t just could [Oliver] have found somewhere else to get a haircut ... We know from the civil rights movement that there’s a deep stigma to being told, ‘We don’t serve your kind here.’”

Americans United has supported a number of gay and lesbian couples in recent lawsuits against business owners who claimed anti-LGBT religious beliefs in their refusals of service.

In Colorado, a civil rights commission in 2014 ruled that a baker had to make wedding cakes for same-sex marriages in response to one couple’s lawsuit. The state bureau of labor in Oregon decided in 2015 that a Portland bakery had to pay \$135,000 in damages after denying service to a same-sex couple. And a florist in Washington state was fined \$1,000 for refusing to sell wedding flowers to a same-sex couple.

California’s Unruh Civil Rights Act prohibits businesses from discriminating against customers due to their sex, sexual orientation or gender identity or expression.

“He needs to abide by the law,” said Oliver, who had a scheduled appointment for a haircut this week but was turned away by Hernandez after they arrived. “I tried to explain that I was transgender ... and he said, ‘It doesn’t matter, ma’am, we only cut men’s hair.’”

Lipper, whose organization may represent Oliver in a lawsuit against The Barbershop, said it was illegal for Hernandez to refuse service to women and to transgender customers.

“Whether I don’t want to cut the hair of women or of people who identify as men, but I deem to be too feminine, however you spin it, this is a clear refusal to cut hair based on sex or gender or perhaps both,” he said.

Over the last year, there have been numerous lawsuits related to the rights of transgender people - whose gender identity is different than the one assigned to them at birth - to access services. Notably, public schools have faced litigation for their refusal to let transgender children use the bathrooms that match their identity.

Oliver said it was important to remember that even with the legalization of marriage equality in the US, the fight for justice for LGBT people is not over, which is why they want to pursue some kind of lawsuit. “If I have the opportunity to keep things advancing ... I would like to try.”

Hernandez said he is a member of the Church of God and said the Bible stipulates that women should have long hair.

“To cut a woman’s hair would be a violation,” he said, adding, “God teaches a very clear distinction between the genders.”

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