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Getting Down to Business

The Unpleasant Business of Job Interviews ...

by Gwendolyn Ann Smith

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Philecia Barnes, awarded U.S.\$320K after demotion.

Many years ago, at the beginning of my transition from male-to-female, I started to distribute copies of my resume, looking for a job to replace the one I lost

shortly after I began to live publicly as a woman. I had a pretty good list of skills behind me, and was targeting workplaces similar to that which I'd just left. Typically, I was, if you'll allow me a slight moment of bragging, a little more qualified than some of the positions for which I was applying.

I soon discovered that my skills would have very little to do with my average interview. Sure, the prospective employer and I would do the dance, but we both knew that my chances were next to nil as soon as I walked in the door.

There was usually a slight change in expression, and a slight 'tightening-up' in the room. When they saw me, they did not see a woman across from them: they saw a man in a dress. They were always polite though, letting me know that they would interview many others, that my resume was fine, and that they'd be calling me back in a week. They rarely bothered with that call, however. I couldn't even land a temporary position through the local employment agencies. It took nearly a year for me to finally land a position, in a rundown business in a neighbourhood so rough that I had to hide against a filing cabinet one day, so as to have some protection from the guns-drawn police standoff happening in the parking lot.

I don't offer this story in an effort to play off your sympathies for what I went through, but rather I offer it as an illustration of what is a common occurrence for most transgender people who choose to enter the public arena. It's not a pleasant experience. What's worse, my experience, while not uncommon, is better than what many out there have faced. I've known more than my share of transgender people who have somehow ended up almost totally unemployable. With this in mind, I was pleased to see a particular bit of inaction from the United States Supreme Court, as the justices decided not to hear an appeal from the city of Cincinnati on behalf of its police department.

It was in the Queen City that a veteran of the city's finest was demoted. This officer had been living as a woman, Philecia Barnes, in her off-duty time, but was still serving on the force as a male.

The story gets complicated in her seventeenth year with the force, where she was initially promoted to sergeant (or was going to be promoted) when superiors decided that Barnes did not have 'command presence'. She was then put into the equivalent of 'double-secret' probation, and finally demoted.

She sued the department, using Title VII under the *Civil Rights Act (U.S.A.) 1964*. A jury found for her. The ruling was appealed, and the appeal was rejected, and now the U.S. has sided with those decisions by declining to hear the case. This goes against an established precedent that claims Title VII does not apply to transgender people, but falls in line with similar rulings over the last few years that Title VII may indeed cover transgender employment rights. It all seems to hinge on how one defines sex under Title VII. In 1994, a similar case, this time a transgender fire fighter, also used Title VII to protect the rights of a Jimmie Smith, who began to face trouble in the workplace after disclosing in confidence to her supervisor, plans to transition. This led to a battery of psychological tests she was required to take. She sued, and was subsequently suspended from duty. The Sixth Circuit Court of Appeals found in Smith's favour. Of course, this is by no means a 100 percent effective stance for transgender people seeking redress against workplace discrimination. In 2000, an employee of the Winn-Dixie grocery chain, Peter Oiler, was fired. Winn-Dixie made no bones about the reason: Oiler, while not presenting as anything other than male in the workplace, cross-dressed in his off hours. A Louisiana federal district judge found for Winn-Dixie, citing that Title VII did not apply. Title VII has plenty of legal history excluding transgender people from coverage, and it likely only takes the right legal argument, and the right judges, to make the Title VII argument moot. This is why it's still important that transgender protections become explicit, such as in the Employment Non-Discrimination Act. I'm actually able to say something positive about the Human Rights Campaign, a rare occurrence, as it embarks on a campaign to educate members of Congress about the need for a transgender inclusive E.N.D.A. Of course, I can balance that with H.R.C.'s lacklustre stance on hate crimes legislation and other protections for transgender people, but I digress.

I'm a pragmatist. To me this isn't an issue of pie-in-the-sky wishes. No, to me this is an issue of basic fairness. All those years ago, all I

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wanted to do was clock in, do my best, and get compensated for same, but my transgender status, a status that was largely irrelevant for the jobs I was applying for, kept me from employment. Jimmie Smith and Philecia Barnes, likewise, had proven their ability to do their jobs - but it was the simple fact that they were transgender that kept them from being treated fairly by their superiors. Through their victories - and maybe even an eventual E.N.D.A. victory - perhaps there's a chance, after all.

Gwendolyn Ann Smith

From Gwendolyn's website: Gwendolyn Ann Smith is a graphic designer, desktop publisher, web designer, writer, and transgender activist.



She writes transmissions for four major L.G.B.T. newspapers in the United States, *Baltimore Gay Life*, the *Bay Area Reporter*, *Between The Lines*, and the *Philadelphia Gay News*. Individual Transmission pieces are also often printed in *Express Gay News*, the *Houston Voice*, the *New York Blade*, the *Southern Voice*, and the *Washington Blade*. In addition to these, she has contributed to several other publications and online forums over the years. Her website contains a vast number of her writings that are of interest to transgender people and our allies.

Gwen has spoken publicly since High School, and has presented on transgender-related topics since 1994. She has spoken in a number of different clubs and forms.

Gwendolyn Ann Smith also founded the Transgender Day of Remembrance in 1998, a day which occurs annually on 20th November. It is a day to memorialize those who have been killed as a result of transphobia, or the hatred or fear of transgender and gender non-conforming people, and acts to bring attention to the continued violence endured by the transgender community. The Transgender Day of Remembrance was originally organised to memorialize the murder of Rita Hester in Allston, Massachusetts, however since its inception, it has slowly evolved from the web-based project started by Smith into an international day of action. In 2010, Transgender Day of Remembrance was observed in over 185 cities in more than twenty countries.

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The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.