

SPEECH ON THE UNITED STATES SUPREME COURT DECISION
OVERTURNING SODOMY LAWS, GIVEN AT THE WEST HOLLYWOOD RALLY
TO CELEBRATE LAWRENCE V. TEXAS, June 26, 2003

By Walter L. Williams

Professor of Anthropology, History, and Gender Studies at the University of Southern California

In my new book GAY AND LESBIAN RIGHTS IN THE UNITED STATES (Greenwood Press, 2003) I take a historical perspective and discuss the importance of sodomy laws as a lynchpin of homophobia and heterosexism. The 1986 Supreme Court decision BOWERS V. HARDWICK, which declared that “homosexuals have no fundamental right to commit sodomy,” was comparable to the infamous 1857 Supreme court DRED SCOTT decision, which declared that black people had no rights that white persons were bound to respect. Anyone who knows American history knows that it took a civil war and a century of black activism to overcome this horrible blot on United States legal history. If BOWERS was our DRED SCOTT, then I think it is fair to say that this new decision LAWRENCE V. TEXAS is our BROWN V. BOARD OF EDUCATION.

But whereas it took African Americans from 1857 to 1954, a full century, to get the United States Supreme Court to recognize the problem of discrimination on the basis of race, it has only been the relatively short time, from 1986 to 2003, to persuade the Supreme Court to declare this unprecedented reversal of BOWERS.

As a gay activist I am impatient that it took this long to get the Supreme Court to see that the freedom to love is an inherent part of the liberty that is guaranteed by the Constitution. But as a historian I know that seventeen years is a very short time to accomplish this reversal. Remember that it took the women’s movement over seventy years of organized resistance just to gain the right to vote for women, and that the struggle for women’s equality is still ongoing today. So, in a historical sense, we have great cause for celebration in what has been accomplished by the gay and lesbian rights movement. Building upon the successes of the African American civil rights movement, and the women’s liberation movement, the gay and lesbian movement has made amazing progress since the beginnings of gay activism half a century ago.

We should also take a moment to remember and honor all those activists who worked long and hard to make this moment happen. Reversals of Supreme Court decisions do NOT happen by accident. They are the product of many influences bringing change to society. Encouraged by a small group of activists who organized the Mattachine Society in Los Angeles in 1950, many gay men, lesbians, bisexuals and transgendered people in subsequent decades have decided to stop hiding and come out of the closet. I want us to especially honor those brave pioneers, who from the 1950s struggled against all odds to argue for equality for sexual minorities.

The language of the Court’s decision makes LAWRENCE V. TEXAS truly historic. Speaking on behalf of the Court’s majority, Justice Kennedy said: “Liberty gives

substantial protection to adult persons in deciding how to conduct their private lives in matters pertaining to sex.... The State cannot demean their existence or control their destiny by making their private sexual conduct a crime. Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government. It is a promise of the Constitution that there is a realm of personal liberty where the government may not enter.... 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.”

In his dissent, Justice Scalia acknowledged the importance of LAWRENCE V. TEXAS in establishing sexual freedom: “Every single one of these laws [restricting sex] is called into question by today’s decision.... This effectively decrees the end of all morals legislation.... The promotion of majoritarian sexual morality is not even a legitimate state interest.... This reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples.... [The Court] has largely signed on to the so-called homosexual agenda.”

I like Justice Scalia’s dissent, because you know what, he is right! And I’ll tell you what our homosexual agenda is. I can say it in seven words. It is “life, liberty, and the pursuit of happiness.” What a wonderful phrase Thomas Jefferson came up with, when he decreed the major purpose of government in the Declaration of Independence. What better example can we come up with in “the pursuit of happiness” than the freedom to love whom we want to love. Like other intimate choices that people make in the course of their lives, the freedom to choose what to speak and write, and the freedom to choose what religion, if any, to follow, the Supreme Court has now acknowledged that the freedom to love is a major aspect of the liberty that we share as Americans.

After all is said and done, it is “the pursuit of happiness” that is what we gay activists have been struggling for all these years. THIS is the homosexual agenda, and that is why LAWRENCE V. TEXAS is such an important decision.

But despite our cause for celebration, the victory has not been won. Now let us strive on, to fully accomplish our goals of bringing life, liberty, and happiness into all people’s lives, and accomplishing full equality for all lesbian, gay, bisexual and transgendered people. Nothing less.

Full equality, nothing less. Full equality, nothing less.