

No. 12-307

IN THE
Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

—v.—

EDITH SCHLAIN WINDSOR and
BIPARTISAN LEGAL ADVISORY GROUP OF THE
UNITED STATES HOUSE OF REPRESENTATIVES,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CIRCUIT

**BRIEF OF *AMICUS CURIAE*
SURVIVORS OF SEXUAL ORIENTATION CHANGE
THERAPIES IN SUPPORT OF PETITIONER
UNITED STATES OF AMERICA AND RESPONDENT
EDITH SCHLAIN WINDSOR, URGING AFFIRMANCE**

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Survivors of Sexual Orientation

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TABLE OF CONTENTS

	PAGE
TABLE OF AUTHORITIES.....	ii
INTEREST OF AMICI CURIAE.....	1
SUMMARY OF ARGUMENT	2
ARGUMENT	3
I. SEXUAL ORIENTATION IS A SUSPECT CLASSIFICATION UNDER THE EQUAL PROTECTION CLAUSE BECAUSE GAY MEN AND LESBIANS HAVE BEEN SUBJECTED TO A HISTORY OF DISCRIMINATION BASED ON AN IMMUTABLE CHARACTERISTIC THAT BEARS NO RELATIONSHIP TO THEIR ABILITY TO CONTRIBUTE TO SOCIETY	3
A. Ryan Kendall	6
B. Peter Drake	9
C. John Metzidis.....	10
D. Emily Kane	13
E. James Guay	14
F. Maris Ehlers	16
CONCLUSION.....	20

TABLE OF AUTHORITIES

Cases	PAGE
<i>Bowen v. Gilliard</i> , 483 U.S. 587 (1987)	2
<i>Brown v. Bd. of Educ.</i> , 347 U.S. 483 (1954)	3
<i>Lawrence v. Texas</i> , 539 U.S. 538 (2003)	4
<i>Perry v. Schwarzenegger</i> , 704 F. Supp. 2d 921 (N.D. Cal. 2010)...	6
<i>Windsor v. United States</i> , 699 F.3d 169 (2d Cir. 2012)	3
 Statutes	
1 U.S.C. § 7	2
 Other Authorities:	
AM. PSYCHIATRIC ASS’N, Position Statement, <i>Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies)</i> (May 2000)...	5
AM. PSYCHOLOGICAL ASS’N, REPORT OF THE TASK FORCE ON APPROPRIATE THERAPEUTIC RESPONSES TO SEXUAL ORIENTATION (2009).....	4, 5
Gabriel Arana, <i>My So-Called Ex-Gay Life</i> , THE AMERICAN PROSPECT, Apr. 11, 2012	8

Jim Burroway, <i>What Are Little Boys Made Of?: An Investigation of an Experimental Program to Train Boys to be Boys</i> , BOX TURTLE BULLETIN, June 7, 2011	18, 19
Richard Green, THE “SISSY BOY SYNDROME” AND THE DEVELOPMENT OF HOMOSEXUALITY (Yale University Press, 1987)	18, 19
Joint Appendix, <i>Hollingsworth v. Perry</i> , No. 12-144 (Jan. 22, 2013)	6, 7, 8
NAT’L COMM. ON LESBIAN, GAY, & BISEXUAL ISSUES, NAT’L ASS’N OF SOCIAL WORKERS, Position Statement, “ <i>Reparative</i> ” and “ <i>Conversion</i> ” Therapies for Lesbians and Gay Men (Jan. 21, 2000).....	5
George A. Rekers & O. Ivar Lovaas, <i>Behavioral Treatment of Deviant Sex- Role Behaviors in a Male Child</i> , 7 J. APPLIED BEHAV. ANALYSIS 173 (1974)	17, 18
Caitlin Ryan et al., <i>Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults</i> , 123 PEDIATRICS 346 (2009)	8
Robert L. Spitzer, Letter to the Editor, <i>Spitzer Reassesses his 2003 Study of Reparative Therapy of Homosexuality</i> , 41 ARCHIVES SEXUAL BEHAV. 757 (2012)	6

INTEREST OF AMICI CURIAE¹

Amici Curiae are five survivors of the dangerous and discredited therapies and treatments, collectively known as “sexual orientation change efforts” (“SOCE”), that are still used by some mental health practitioners to try to change patients’ sexual orientation. The sister of a man who was subjected to SOCE as a child and ultimately committed suicide is the sixth *Amicus*. They submit this brief to recount their stories, which illustrate that gay men and lesbians as a class are defined by an immutable trait that bears no relationship to their ability to contribute to society, and have historically experienced discrimination and prejudice that continues to this day. They urge that the Court recognize sexual orientation as a suspect classification for equal protection constitutional analysis purposes.

Ryan Kendall, Peter Drake, John Metzidis, Emily Kane, and James Guay recount their own stories, including the stigmatizing effect of their own families’ and communities’ hostility towards homosexuality, and the harms that they suffered as a result of the doomed efforts to change a fundamental part of themselves. Maris Ehlers recounts the story of her brother, Kirk Andrew Murphy, who was subjected to SOCE as a child and ultimately took his own life after despairing about his inability to change his sexual orientation.

¹ No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution to the preparation or submission of this brief. Consent of the parties to the filing of this brief has been obtained and filed with the Clerk of the Court.

SUMMARY OF ARGUMENT

Sexual orientation should be recognized as a suspect classification under the equal protection component of the Due Process Clause of the Fifth Amendment because homosexuals as a class have long been subjected to discrimination based on an immutable characteristic that should not be the basis for unequal treatment. While it would not be necessary for sexual orientation to be an immutable trait for heightened scrutiny to apply, *see Bowen v. Gilliard*, 483 U.S. 587, 602 (1987) (looking to whether a class “exhibit[s] obvious, immutable, or distinguishing characteristics that define them as a discrete group” (emphasis added)), where a community is singled out for discrimination based on an inherent characteristic that *is* immutable, as is the case here, the application of heightened scrutiny is particularly appropriate.

Amici’s personal stories as survivors of SOCE, which are representative of the experiences of countless other lesbian, gay, bisexual and transgender (“LGBT”) people, illustrate the immutability of sexual orientation and the history of discrimination and animosity faced by gay men and lesbians based solely on a trait that bears no relationship to their ability to contribute to society.

For these reasons, *Amici* urge the Court to subject the Defense of Marriage Act (“DOMA”), 1 U.S.C. § 7, to a heightened level of scrutiny and affirm the decision of the United States Court of Appeals for the Second Circuit holding that the law violates the equal protection component of the Due Process Clause of the Fifth Amendment.

ARGUMENT**I. SEXUAL ORIENTATION IS A SUSPECT CLASSIFICATION UNDER THE EQUAL PROTECTION CLAUSE BECAUSE GAY MEN AND LESBIANS HAVE BEEN SUBJECTED TO A HISTORY OF DISCRIMINATION BASED ON AN IMMUTABLE CHARACTERISTIC THAT BEARS NO RELATIONSHIP TO THEIR ABILITY TO CONTRIBUTE TO SOCIETY**

DOMA prohibits the federal government from recognizing the marriages of gay men and lesbian women, solely on the basis of their sexual orientation. The Second Circuit Court of Appeals correctly held that DOMA could not survive Respondent Edith Windsor’s Equal Protection challenge under intermediate scrutiny, *Windsor v. United States*, 699 F.3d 169, 188 (2d Cir. 2012); it follows that DOMA cannot survive the heightened level of scrutiny triggered because it discriminates based on a suspect classification.

Amici’s stories reveal the extent that gay men and lesbians have been and continue to be subjected to discrimination and prejudice, based solely on an inherent trait that bears no relationship to their ability to contribute to society. The harmful and lasting effect of this stigma, as recounted by these *Amici*, demonstrate that discrimination against gay men and lesbians “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954).

Amici's stories also illustrate that a person's sexual orientation, like his or her race, ethnicity or gender, is an immutable characteristic. Respondents Bipartisan Legal Advisory Group of the United States House of Representatives ("BLAG") assert that sexual orientation is not immutable, describing it as merely "a propensity to engage in a certain kind of conduct." Resp't BLAG's Br. 55. Yet for nearly 40 years, the leading mental health professional associations have recognized that homosexuality is not an illness or disorder that can or should be changed. Homosexuality was removed from the Diagnostic and Statistical Manual of Mental Disorders ("DSM") in 1973, and the American Psychological Association "rejected the stigma of mental illness that the medical and mental health professions had previously placed on sexual minorities." AM. PSYCHOLOGICAL ASS'N, REPORT OF THE TASK FORCE ON APPROPRIATE THERAPEUTIC RESPONSES TO SEXUAL ORIENTATION 11 (2009). This scientific and medical consensus has become more widely accepted throughout society over the past decades, and it is past time that the immutability of sexual orientation is recognized by the courts as well. *See Lawrence v. Texas*, 539 U.S. 538, 578-79 (2003) ("Had those who drew and ratified the Due Process Clauses of the Fifth Amendment or the Fourteenth Amendment known the components of liberty in its manifold possibilities, they might have been more specific. They did not presume to have this insight. They knew times can blind us to certain truths and 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.”).

There is simply no reliable evidence that a person can change his or her sexual orientation, as recognized by the mental health community. For example, in 2000, the National Association of Social Workers concluded that “lesbians and gay men are often pressured to seek reparative or conversion therapies, which **cannot and will not change sexual orientation**. . . . No data demonstrate that reparative or conversion therapies are effective” NAT’L COMM. ON LESBIAN, GAY, & BISEXUAL ISSUES, NAT’L ASS’N OF SOCIAL WORKERS, Position Statement, “*Reparative*” and “*Conversion*” Therapies for Lesbians and Gay Men (Jan. 21, 2000) (emphasis in original). In 2000, the American Psychiatric Association also opposed the practice of SOCE because it is “at odds with the scientific position . . . that homosexuality per se, is not a mental disorder,” and explained that “there are no scientifically rigorous outcome studies . . . [and] sparse scientific data” to support the position that SOCE can change an individual’s sexual orientation. AM. PSYCHIATRIC ASS’N, Position Statement, *Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies)* (May 2000). In 2009, an American Psychological Association task force conducted a comprehensive review of scientific studies on the effectiveness of SOCE, and concluded that “the peer-refereed empirical research . . . provides little evidence of efficacy” in reducing or eliminating same-sex attraction. AM. PSYCHOLOGICAL ASS’N, REPORT OF THE TASK FORCE ON APPROPRIATE THERAPEUTIC RESPONSES TO SEXUAL ORIENTATION 35 (2009).

The one prominent academic study that purported to show that SOCE could result in changes in sexual orientation has been renounced by its author, Dr. Robert Spitzer, who explained that his methodology was deeply flawed and apologized to the gay community for “making unproven claims of the efficacy of reparative therapy.” Robert L. Spitzer, Letter to the Editor, *Spitzer Reassesses his 2003 Study of Reparative Therapy of Homosexuality*, 41 ARCHIVES SEXUAL BEHAV. 757 (2012). As the District Court in *Perry v. Schwarzenegger* found: “No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation.” *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 966 (N.D. Cal. 2010).

A. Ryan Kendall

Ryan Kendall testified at trial in *Perry v. Schwarzenegger*, the challenge to California’s Proposition 8, and elaborates on his testimony here.

Ryan was raised in a religiously conservative household in Colorado Springs by parents who believed that homosexuals were “essentially evil.” When he was a young teenager, Ryan’s parents discovered that he was gay by reading his journal and were outraged. As Ryan testified: “I remember my mother looking at me and telling me that I was going to burn in hell.” Joint Appendix at 729, *Hollingsworth v. Perry*, No. 12-144 (Jan. 22, 2013).

Ryan’s parents desperately sought to “fix” him by sending him to a series of SOCE practitioners. After several sessions of with a self-described

“Christian therapist,” Ryan’s parents were referred to the National Association for Research and Therapy of Homosexuality (“NARTH”), an organization that purported to practice a more secular form of SOCE. For the better part of a year, Dr. Joseph Nicolosi practiced SOCE on Ryan through weekly telephone sessions and in person at NARTH’s California treatment center.

Ryan knew from the start that his sexual orientation was inherent and unchangeable, and that the SOCE sessions were useless: “I knew I was gay just like I knew I’m short and I’m half Hispanic. And I just never thought that those facts would change.” *Id.* at 731. In fact, during a group therapy session, Dr. Nicolosi introduced a man named Kelly as a “perfect patient” who had been cured of his same-sex attractions, yet after Dr. Nicolosi left the room, Kelly told Ryan that he was going to a gay bar later that night, and was merely pretending to be cured for the sake of his family. *Id.* at 737. As Ryan testified: “I knew I was gay. I knew that could not be changed. And this just confirmed that this [program] wasn’t going to be effective for me.” *Id.* at 738.

However, Ryan’s understanding of the immutability of his sexual orientation did not protect him from the harmful effects of SOCE on his psyche and on his family. During each session, Dr. Nicolosi emphasized that Ryan’s “treatment” would help him suppress his sinful and defective same-sex desires. Ryan’s exposure to SOCE validated his parents’ beliefs about homosexuality, encouraging them to reject him and causing him great pain. After he began SOCE, Ryan’s parents became verbally and emotionally abusive, telling

him that he was abhorrent, disgusting, and evil. As Ryan testified: “[M]y mother would tell me that she hated me, or that I was disgusting, or that I was repulsive. Once she told me that she wished she had had an abortion instead of a gay son. She told me that she wished I had been born with Downs Syndrome or I had been mentally retarded.” *Id.* at 733.

The experience virtually destroyed Ryan’s place in the world, driving him to the brink of suicide. Ryan was not unique: LGBT youth who experience high levels of family rejection, as Ryan did, are 8.4 times more likely than peers from families with no or low levels of family rejection to report having attempted suicide. Caitlin Ryan et al., *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 PEDIATRICS 346, 349-50 (2009). In fact, Gabriel Arana, another minor undergoing SOCE who Dr. Nicolosi paired with Ryan as part of their “treatment,” came perilously close to taking his own life after years of exposure to SOCE because he saw himself as “a leper with no hope of a cure.” See Gabriel Arana, *My So-Called Ex-Gay Life*, THE AMERICAN PROSPECT, Apr. 11, 2012, <http://prospect.org/article/my-so-called-ex-gay-life>.

When he was 16, Ryan stopped undergoing SOCE, ran away from home, and legally separated from his parents. For the next decade, Ryan suffered severe depression, including frequent thoughts of suicide. He was filled with self-hatred that derived from SOCE, which had reinforced the message that he was defective and immoral at a time when most adolescents are first discovering

their sexual identity. Like many others experiencing total family rejection, Ryan succumbed to periods of drug abuse and homelessness, and his education was derailed for more than a decade. Ryan's exposure to SOCE tore apart his family, leading to a fifteen-year period of estrangement from his parents.

Although Ryan has been able to rebuild his life, returning to school and reconciling with his parents, he continues to struggle with the lasting psychological damage caused by SOCE. Nor will he be able to regain his lost decade—at the critical period in the transition from adolescence to adulthood—or the fifteen years taken from him and his family, including his father, whose health is failing.

B. Peter Drake

Peter Drake realized that he was attracted to men when he was 13, but because of the stigma associated with homosexuality, he could not accept that he was gay for much of his life. Peter lived in a straight marriage for 28 years, fathering two children. Although he was faithful to his wife, his attraction to men was always present. While Peter avoided same-sex relationships for decades, he was never able to change who he was, and eventually realized that he was fighting a losing battle.

When Peter was 46, he sought out a licensed SOCE therapist in an attempt to change his sexual orientation. For nearly three years, Peter subjected himself to weekly SOCE “therapy” sessions that deepened his depression until he came very close to attempting suicide. The therapist's change

efforts ranged from having Peter imagine himself lusting for parts of the female body, to attempting to “father” Peter to correct the supposedly inadequate parenting that the therapist believed to be a cause of his homosexuality. After three years without progress, Peter became increasingly discouraged, ashamed, and humiliated, as he perceived his inability to change his sexual orientation as a personal failure. Peter’s hopes that he could be “cured” were dashed, and his therapist offered no comfort, leaving him broken.

Through work with a different therapist, Peter was slowly able to accept himself as a gay man, coming out to his family and friends when he was 53. With support from his wife, Peter’s marriage ended amicably. Peter now recognizes that his sexual orientation is an immutable trait and fundamental part of his identity: he was able to “pass” as straight for decades, but at the cost of burying his true self. Recently, a pastor said the words that Peter had needed to hear so long ago: “Peter, I am glad you are ready to be the man God made you to be.”

C. John Metzidis

Around the age of 14, when John Metzidis realized that he was attracted to men, he felt immense shame, as he had been struggling with the fear that he was gay since early childhood. Raised in a politically conservative household in Orange County, California, John saw that his community viewed being gay as disgusting and shameful. As a child, he was often teased by other children and called derogatory names like “gay boy” and “fag-got,” and thus learned to be careful about the way

he spoke, the way he carried himself, and the interests and hobbies he pursued, lest anything be perceived by the other children as too effeminate or “gay.”

Due to the stigma associated with homosexuality, John was not prepared to accept his sexual orientation, which he saw as a “problem” or “defect” that needed to be “cured.” After graduating high school, John began reading about the “ex-gay” movement, and was drawn to the purportedly more secular forms of SOCE practiced by NARTH and Dr. Nicolosi, which taught that it was possible to change one’s sexual orientation. At the age of 20, John sought out a SOCE practitioner and began undergoing weekly sessions of “reparative therapy” with Scott Sutherland, a therapist at Dr. Nicolosi’s clinic. Like many others who voluntarily seek out SOCE, John was initially hopeful at the prospect of changing his sexual orientation, and for a period believed that he was making progress.

After about nine months of subjecting himself to SOCE, John was frustrated with his inability to change his sexual orientation, and became fixated on the notion that he was broken or defective. He became withdrawn and exceedingly self-conscious, and his grades showed a sharp decline. John began suffering from deepening depression and anxiety, and thought about killing himself more than at any other time in his life. When, after 18 months of SOCE, John finally accepted that he could not change his sexual orientation, his therapist was unable to offer any support, and instead blamed John for not working hard enough to change.

Before ending his therapy, John met another SOCE therapist from Dr. Nicolosi's clinic, David Matheson, who told him that he was being too "perfectionistic" in his expectations about changing his sexual orientation, and that he needed to focus less on "changing" and more on "overcoming" his same-sex attractions. From this and other conversations, John got the sense that Matheson and other self-identified "ex-gays" he met had not actually succeeded in changing their sexual orientation, and that their "struggle" with their sexual identity continued, no matter how long ago they had begun SOCE treatment or how long they had been married to women.

John considers himself one of the luckier survivors of SOCE, but one of the most damaging aspects for him was the deep violation of trust and the abuse of the therapeutic relationship. John opened up to his therapist more than he had to any other person to that point in his life, sharing intimate details and exploring difficult emotions. Yet that relationship was based upon a fraud: that his sexual orientation was a disorder that could be changed if he tried hard enough, rather than an immutable characteristic.

John is now a happy and well-adjusted person, having embraced his sexual orientation as a fundamental part of his identity. He and his partner Jason are engaged to be married. As they live in California, they have had to wait due to California's Proposition 8. Being allowed to participate in the social institution of marriage is important to John and Jason because being officially married singularly conveys the values of family, love, commitment and fidelity—values

that John and Jason deeply honor. To them, the federal government's refusal to grant equal treatment and dignity to same-sex unions send the message that there is something dysfunctional or disordered about gay people as individuals—a view that was the underlying premise of John's participation in SOCE, and a view that John has worked so hard to overcome.

D. Emily Kane

Emily Kane was raised in a religiously conservative household in Kentucky, in a community where homosexuality was seen as immoral and wrong. When she was 16, her parents discovered that she was a lesbian and tried to change her by forcing her to undergo weekly “conversion therapy” sessions at CrossOver Ministries, an “ex-gay” counseling organization. During each session, Emily's therapist, a self-proclaimed “former” lesbian with no formal therapeutic training, would emphasize that Emily's same-sex desires were sinful and that she should choose to reject them through the power of prayer. There were times during those months when Emily hated herself to the core. She tried in vain to eliminate her attraction to women, and was left with the constant feeling of failure because she was unable to change this fundamental part of herself.

Although by the end of her three months of “conversion therapy,” Emily recognized that her sexual orientation was immutable, her exposure to SOCE had reinforced the stigmatizing effect of the animosity and hostility of her family and community towards homosexuality. Emily did not feel safe talking with anyone about her sexual orienta-

tion because it was clear to her that she would not be accepted, and was terrified that if she were honest with her parents, they would reject her completely. For about four years, she was not able to come out to anyone, and lived in a constant state of fear that someone would discover that she was gay. Being told by her “therapist” that her same-sex desires were a choice that she could pray away only made Emily feel worse, because she knew that it was impossible to change her sexual orientation.

Emily is now a college student who has mostly recovered from the psychological harms she suffered as a result of her exposure to SOCE, and has fully embraced her identity as a lesbian. Yet she still feels deeply scared and sick to her stomach each time she comes out to a new person, as there is a part of that deeply engrained stigma associated with homosexuality that has never left her.

E. James Guay

As the son of a preacher raised in a fundamentalist Christian household in Southern California, James Guay was plagued with guilt and shame when he realized at the age of 12 that he was gay. Brought up in a religiously conservative household, James was taught that homosexuals were inherently flawed and sinful, and was desperate to change his sexual orientation. He spent the next eight years of his life making every effort to eliminate his same-sex attractions before finally recognizing that he could never truly change this fundamental part of himself.

After four years of attempting to change on his own—through church involvement, Bible reading,

and prayer—James had succeeded only in internalizing the Biblical message that he was an “abomination,” increasing his feelings of self-hatred. At the age of 16, James disclosed his internal struggle to his parents, who helped him to find a self-described “ex-gay” licensed psychologist, Dr. James Wilder, who practiced a form of SOCE referred to as “conversion therapy.” James was initially filled with a sense of relief and a newfound hope that he could change his sexual orientation through SOCE. Like many other LGBT minors, James voluntarily agreed to undergo SOCE and was fully dedicated to the weekly sessions for a year. As an impressionable teenager determined to rid himself of his “disease,” James believed for a time that undergoing SOCE would help him to become heterosexual. Yet the promises of change never materialized, and his exposure to SOCE instead caused lasting psychological trauma.

As part of James’s “conversion therapy,” Dr. Wilder counseled that homosexuality can result from inadequate parenting, which wreaked havoc on James’s relationship with his parents by transforming his self-hatred into anger at them. Dr. Wilder also required James to examine his past to search for an actual set of events that caused his same-sex desires, which put extraordinary pressure on him to create false memories, and obliterated his sense of self. His exposure to SOCE deepened his depression, shame, and feelings of isolation, rejection, and failure. For years, he suffered from fear of intimacy, severe anxiety, and from addictive behaviors.

When James realized that, despite his discipline and devotion, he could never truly change who he was, his worst fears were realized and he saw himself as intrinsically broken. He was left to pick up the pieces with the help of affirmative psychotherapy that did not demand that he change the unchangeable.

James now happily recognizes that his sexual orientation is an immutable trait that is a fundamental part of his identity. He has worked as a licensed therapist for more than a decade, helping LGBT clients overcome the harmful effects of SOCE. His clients who underwent SOCE are often distrustful, scared, and in a great deal of pain, exhibiting symptoms similar to those of people who suffered early childhood traumas. Through his work, James has learned that his experience was a common one: many of his clients voluntarily underwent SOCE because they, like he, desperately needed to conform their identities to the expectations of their families and communities.

F. Maris Ehlers

Maris Ehlers's older brother, Kirk Andrew Murphy, was the original poster child for the dangerous practices now known as SOCE. On December 21, 2003, at the age of 38, Kirk committed suicide. At the time, Maris did not understand why. After learning more about the SOCE "therapy" that Kirk was subjected to by the State of California, Maris wonders how Kirk was able to live as long as he did.

In 1970, when Kirk was almost five years old, his parents enrolled him in a federally funded experimental study at the University of

California, Los Angeles (“UCLA”), which used aversion therapy to discourage feminine behaviors in young boys, based on the now-discredited theory that this would prevent them from growing up to be gay. Under the pseudonym “Kraig,” Kirk became a case study, and later a repeatedly cited “success story,” of then-UCLA doctoral student George A. Rekers, who has since become one of the leading proponents of subjecting children to SOCE. See George A. Rekers & O. Ivar Lovaas, *Behavioral Treatment of Deviant Sex-Role Behaviors in a Male Child*, 7 J. APPLIED BEHAV. ANALYSIS 173-190 (1974).

At the UCLA Gender Identity Clinic, Kirk was placed in a playroom filled with stereotypical “boys’ toys” and “girls’ toys.” *Id.* at 176. Kirk’s mother was instructed to smile and compliment him when he played with the “boys’ toys,” and to shun him when he played with “girls’ toys.” *Id.* at 179. Kirk became so distraught by his mother’s refusal to acknowledge him after he picked up a “girls’ toy” that he would break down crying, and the researchers had to reassure her “empathetically that she was doing the right thing and was doing it well . . .” *Id.* Maris does not fault her mother for following the directions of UCLA “therapists,” whom she trusted not to ask her to do anything that would harm her son. However, Maris does not doubt that requiring her mother to repeatedly reject Kirk was cruel and damaging.

The UCLA researchers exported Kirk’s SOCE “treatment” to the Murphy home, training Kirk’s mother to award blue poker chips for masculine behavior and red poker chips for feminine behavior. *Id.* at 180-81. Blue chips were to be exchanged

for rewards, like candy, and red chips for punishments, including “physical punishment by spanking.” *Id.* at 180. At the end of each week, when the chips were tallied, Kirk’s father would administer the spankings by whipping Kirk’s bare bottom with a belt. While Maris was too young to remember the poker chip system imposed on the family as part of Kirk’s SOCE “treatment,” she does remember sneaking into Kirk’s room to comfort him after the whippings.

After ten months, the UCLA researchers ended their experimental SOCE treatment on Kirk and declared victory, concluding that they had succeeded in their attempt “to extinguish feminine behavior and to develop masculine behavior.” *Id.* at 179, 186. Contrary to the researchers’ self-congratulation, their “therapy” had caused extraordinary damage to Kirk, without changing his sexual orientation. After undergoing SOCE, Kirk became withdrawn, isolated, and incredibly self-conscious. He obsessed over what others thought of him, revealing through questions to Maris that he was constantly over-analyzing the words and actions of others. Maris could never understand the visible pain that Kirk carried with him, and his belief that no one could ever love him as he was. She believes that SOCE left Kirk stricken with the feeling that he was broken.

At the age of 17, Kirk attempted suicide for the first time. The following year, Kirk explained to Dr. Richard Green, one of the leading advocates for removing homosexuality from the DSM in 1973, that he had a sexual encounter with a man weeks before his suicide attempt. Jim Burroway, *What Are Little Boys Made Of?: An Investigation*

of an Experimental Program to Train Boys to be Boys, BOX TURTLE BULLETIN, June 7, 2011, <http://www.boxturtlebulletin.com/what-are-little-boys-made-of5> (quoting Richard Green, THE “SISSY BOY SYNDROME” AND THE DEVELOPMENT OF HOMOSEXUALITY 313-15 (Yale University Press, 1987)).² Kirk told Dr. Green that he felt guilty that the SOCE “treatment” he underwent at UCLA had failed to “fix” him, and admitted that he had tried to kill himself because he did not want to be gay. *Id.*

Kirk eventually came out to Maris as a gay man; even the extreme form of SOCE that he was subjected to as a child was unable to change his sexual orientation. But Kirk was not able to recover from the severe harm that he suffered due to his exposure to SOCE, and ultimately took his own life. Through the painful process of losing her brother and then learning what was done to him under the auspices of government-sanctioned SOCE “treatment,” Maris became committed to protecting others from being exposed to these dangerous and ineffective efforts to change this fundamental and inherent part of themselves.

² Dr. Richard Green used Kirk as a prominent case study in his book, under the pseudonym “Kyle.” He confirmed that “Kyle” is Kirk to Maris in 2010.

CONCLUSION

By illustrating the immutability of sexual orientation and the history of discrimination faced by gay men and lesbians based solely on a trait that bears no relationship to their ability to contribute to society, *Amici's* stories show that the Court should recognize sexual orientation as a suspect classification for equal protection constitutional analysis purposes, and thus should review DOMA under a heightened level of scrutiny.

For the foregoing reasons, and for the reasons stated in the Merits Briefs of Petitioner United States of America and Respondent Edith Schlain Windsor, *Amici Curiae* urge the Court to affirm the judgment of the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

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