

William H. Gardner



William H. Gardner was an attorney who worked for much of his career at Hodgson Russ law firm in Buffalo, New York where he developed a reputation for advocating for the rights of LGBT people.

As a young lawyer at Hodgson Russ, he often witnessed LGBT people getting targeted, harassed and persecuted in court, with little to no protections. Gardner took issue with laws banning consensual sodomy and anti-loitering laws which were disproportionately used against gay men, many of whom were homeless. Gardner vowed to fight this, and while at Hodgson Russ, he began to take cases on a pro bono basis to combat discriminatory practices of the Buffalo police and government.

In 1980, Gardner achieved his first major victory, while representing two men charged with consensual sodomy. At that time, newspapers would routinely publish the names of individuals arrested for such offenses, which put their reputations and jobs at risk – this gave Gardner more of a reason to fight these charges. The case, *People v. Onofre*, was brought all the way to the New York Court of Appeals, where he won, and the sodomy law was declared unconstitutional because it criminalized private sexual conduct between consenting adults.

A second major victory came in 1984. In *People v. Uplinger*, Gardner represented a teacher who was charged with loitering for the purpose of soliciting sodomy. The teacher who was walking down the street was propositioned by an undercover police officer to have a sexual encounter, but it was a trap, and the teacher was [arrested](#). The teacher called Gardner to fight the charge and Gardner happily accepted. After much litigation, the case made its way to the United States Supreme Court which resulted in a victory when the nation's highest court allowed to stand a ruling by the New York Court of Appeals that the loitering law was unconstitutional.

These two cases advanced the legal rights and human dignity of gays and lesbians. Gardner maintained a steady career as a senior partner with the law firm Hodgson Russ, regularly volunteering his service with organizations such as the Legal Aid Bureau.

Of his victories, Gardner says, "I'm not sure I always did what I should have. But from the day I started taking free cases, this whole process was, I think in retrospect, simply doing the one thing I could do, which was to fight the oppression. So I did good, and I'm glad."

Gardner was a member of the National Committee for Sexual Civil Liberties during the late 1970s and early 1980s, an era when attorney Thomas F. Coleman was the organization's co-chair. Coleman worked closely with Gardner on the Uplinger case, was listed as co-counsel, and sat at counsel table as Gardner argued the case in the United States Supreme Court.

Coleman also enlisted Gardner to be counsel of record on an amicus curiae brief filed in the New York Court of Appeals in *Braschi v. Stahl*, a case in which the court was asked to use an inclusive definition of family in connection with a rent-control dispute. If a restrictive definition had been used – blood, marriage, adoption – the surviving same-sex life partner would have been evicted. The court wrote a landmark decision acknowledging the reality of family diversity in America and encouraging the use of an inclusive definition of family when the legislature did not specify a restrictive one.

The OutLaw LGBT student group at the University of Buffalo Law School honored William H. Gardner at its annual gala dinner on March 10, 2016. Gardner graduated from the law school in 1959. Speaking of his advocacy in the 1970s and early 1980s, Gardner told the audience:

“I let various folks and gay organizations know that if they brought me people, I would represent them for free. If they wanted to make a case and fight the system, I was ready to do that. I was confident that sooner or later someone would show up who wanted to fight and not be a victim.”

Coleman has high praise for Gardner. “Despite the fact that Bill Gardner was a gentleman and a scholar, he was a real fighter. His advocacy was based on concern for the oppressed and a passion for justice.” Coleman was sorry to learn that Gardner had passed away in 2022. He was 88 at the time of his death.

References

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