

15-3775

Zarda v. Altitude Express, Inc.

United States Court of Appeals

FOR THE
SECOND CIRCUIT

ORDER

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25th day of May, two thousand seventeen.

Melissa Zarda, co-independent executor of the estate of Donald Zarda, and William Allen Moore, Jr., co-independent executor of the estate of Donald Zarda,

Plaintiffs-Appellants,

v.

15-3775

Altitude Express, Inc., doing business as Skydive Long Island, and Ray Maynard,

Defendants-Appellees.

Following disposition of this appeal on April 18, 2017, a judge of the Court requested a poll on whether to rehear the case *en banc*. A poll having been conducted and a majority of the active judges of the Court having voted in favor of rehearing this appeal *en banc*, IT IS HEREBY ORDERED that this appeal be heard *en banc*. See Fed. R. App. P. 35(a). The *en banc* panel will consist of the active judges of the Court, as well as those senior judges who sat on the panel that heard the initial appeal. See 28 U.S.C. § 46(c).

The parties are instructed to brief only the following question: “Does Title VII of the Civil Rights Act of 1964 prohibit discrimination on the basis of sexual orientation through its prohibition of discrimination ‘because of . . . sex?’”

We invite amicus curiae briefs from interested parties. Appellants’ brief and appendix, and any amicus curiae briefs in support thereof, shall be filed by June 26, 2017. Appellees’ brief and appendix, and any amicus curiae briefs in support thereof, shall be filed by July 26, 2017. Appellants’ reply brief shall be filed by August 9, 2017.

Oral argument will be held on September 26, 2016 at 2:00 p.m. at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

The image shows a handwritten signature in cursive that reads "Catherine O'Hagan Wolfe". To the left of the signature is a circular seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in the center.