



## **Southern LGBT groups file brief in Va. marriage case**

By Michael K. Lavers

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Army Lt. Col. **Heather Mack** and **Ashley Broadway-Mack** live in Fort Bragg, N.C. (Photo courtesy of Equality North Carolina)

Two Southern LGBT advocacy groups on Friday filed an amicus brief in a federal lawsuit challenging Virginia's same-sex marriage ban.

Equality North Carolina and the South Carolina Equality Coalition repeatedly reference the impact their respective states' same-sex marriage bans have had on the families of gay and lesbian servicemembers in [the 27-page brief](#) they filed with the 4th U.S. Circuit Court of Appeals in Richmond, Va.

Tracy Johnson legally married Donna Johnson, a staff sergeant with the North Carolina National Guard, in D.C. in February 2012.

A suicide bomber in Afghanistan killed Donna Johnson eight months. Tracy Johnson has yet to receive death benefits from the Department of Veterans Affairs because North Carolina does not recognize her D.C. marriage.

The brief also cites Ashley Broadway-Mack and Army Lt. Col. Heather Mack who live in Fort Bragg, N.C.

The women – who have been together for more than 15 years and are raising two children – exchanged vows in the nation's capital in November 2012. Broadway-Mack is unable to make medical and other decisions on behalf of her children in North Carolina because the state does not recognize their marriage and prohibits second-parent adoption for gays and lesbians.

“Broadway-Mack lacks the rights and privileges granted to all other parents,” writes Mark Kleinschmidt, who is gay and the mayor of Chapel Hill, N.C., in the brief. “Once she steps off the military base and into Cumberland County, N.C., Broadway-Mack can no longer direct the education of her children or make decisions regarding their care.”

Kleinschmidt notes in the brief that Broadway-Mack could also lose custody of her children if something were to happen to Mack while on deployment.

“This situation leaves the family vulnerable,” he says. “Because of North Carolina’s discriminatory laws, Lt. Col. Mack and Broadway-Mack’s children lose the stability of having two legal parents. This harm is aggravated in the context of a military family when a parent’s life is put at risk in service to her country.”

Broadway-Mack discussed the brief with reporters during a conference call earlier on Friday.

“I question what legal problems I would have if something were to happen to Heather,” she said, noting her wife is currently in Afghanistan. “That is something that weighs on my very heavily.”

Fort Bragg is the largest U.S. Army installation in the country. Camp Lejeune and Marine Corps Air Station Cherry Point are also located in the Tar Heel State.

Parris Island and Fort Jackson are among the military installations in South Carolina.

“We believe individuals coming to the state for training purposes should receive the same protections as the state they came from,” said South Carolina Equality Coalition Executive Director Ryan Wilson.

North Carolina voters in 2012 approved a state constitutional amendment that bans same-sex marriage and recognition of any other gay and lesbian relationships. South Carolinians in 2006 approved a constitutional amendment defining marriage as between a man and a woman.

The American Civil Liberties Union of North Carolina last week [filed a lawsuit](#) on behalf of three married same-sex couples who are seeking legal recognition of their unions in the Tar Heel State.

The ACLU in 2012 filed a federal lawsuit against the state’s second-parent adoption ban. The group last year amended the case to directly challenge North Carolina’s marriage amendment.

U.S. District Judge Arenda L. Wright Allen in February struck down Virginia’s same-sex marriage ban.

The 4th Circuit next month is scheduled to hear oral arguments in a lawsuit against it that Timothy Bostic and Tony London of Norfolk and Carol Schall and Mary Townley of Chesterfield filed last year. The federal appeals court in March allowed the American Civil Liberties Union and Lambda Legal – who filed a separate lawsuit against the commonwealth’s gay nuptials ban last August on behalf of two lesbian couples from the Shenandoah Valley – to join the case.

North Carolina, South Carolina and West Virginia fall under the 4th Circuit’s jurisdiction.

“Our gay and lesbian service members put their lives on the line everyday for North Carolina, and it’s shameful that they and their families are treated as second-class by our present state of inequality,” said Equality North Carolina Executive Director Chris Sgro. “As these brave men

and women courageously perform their duties with dignity and honor, at Equality NC we think its our duty to stand up for the freedom to marry for those who fight for the freedom for all.”

A.E. Dick Howard and Daniel R. Ortiz of the University of Virginia School of Law and Carl W. Tobias of the Richmond School of Law on Friday also filed an amicus brief with the 4th Circuit in the Bostic case. PFLAG, the Family Equality Council, the Gay and Lesbian Medical Association, the National Association for the Advancement of Colored People and the Cato Institute are among the groups that filed briefs with the federal appeals court.