

Testimony of Jamie Grace Alexander, *Baltimore Transgender Alliance* (SUPPORT HB488)

Homophobia & Transphobia generally means a dislike or prejudice against gay & trans people; but in the case of the panic defense it represents a literal fear. A fear that gay & trans people walk among us, a simple reality in 2020, but also a fear of ones internal response to attraction to a LGBT person.

This fear does not deserve to be prioritized over the lives & wellbeing of my LGBT siblings. I won't waste time arguing today about why hate crimes are inexcusable, & instead shift the focus to the LGBT victims of violence & the source of the panic.

It is necessary to discuss passing, disclosure & coming out when we are unpacking this law that derives from "THE DISCOVERY OR PERCEPTION OF, OR BELIEF ABOUT, ANOTHER PERSON'S SEX, GENDER IDENTITY, OR SEXUAL ORIENTATION" all of the above should be left to the discretion of the LGBT person in order to reduce already disproportionate violence.

"Pushing Back: A Blueprint for Change" a report from Free State Justice summarizing their 2016 Needs Assessment of LGBTQ Marylanders reported that more than half of all respondents have either been harassed themselves or know someone who has been. More than proving that gay & trans people have greater reason for fear than those using the panic defense.

These daily realities on street harassment bleed into intimate relations as the report also states that Black women and transgender individuals are at a higher risk of experiencing criminalization and violence by police upon reporting domestic violence and sexual assault.

Laws like these only further marginalize at risk individuals, take away their right to disclose or not disclose, & victim-blame them. Moreover, this law represents the long standing belief in my community that the government doesn't care whether we live or die.

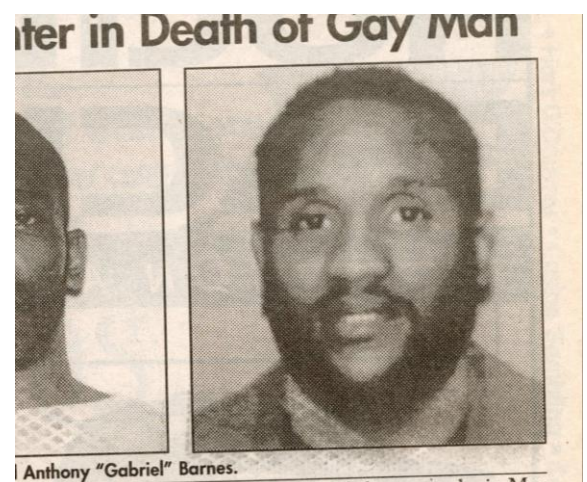
Are gay & trans people not afraid?

October 1996 Anthony "Gabriel" Barnes was murdered by Charles Garney In Prince Georges County, Maryland. Garney admitted to doing so in April 1997. His public defender claimed that his client was pushed to murder when Gabriel tried to "force" him into "deviant" & "unnatural" sex. Despite his admission of guilt, Garney was hung on the charge of manslaughter with a maximum of 10 years & a possibility of parole in only 3. Garneys defender used the same defense as the Mathew Shepherd case & severely reduced his clients sentence.

This injustice is older than I am.

We have a real opportunity to give Gabriel a small justice today

I sincerely hope that the men & women of Annapolis will not panic.



Pushing Back: A Blueprint for Change

Carney Charged With Manslaughter in Death of Gay Man

By WINNIE McCROY
BGP Staff Writer

Urged by a coalition of gay activists in Prince George's County, state's attorney Jack Johnson has brought to justice the confessed killer of a black gay man murdered in Oct. 1996. Charles Carney, confessed killer of Anthony "Gabriel" Barnes, pleaded guilty to charges of voluntary manslaughter, and faces a maximum sentence of ten years.

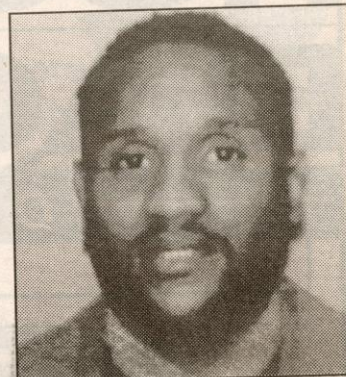
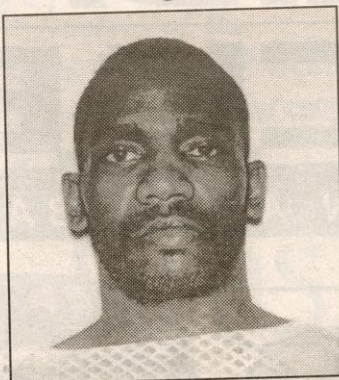
"I've spoken to a number of people from the gay community," said Johnson. "They brought to my attention the very serious concerns. I received more letters about this case than in my history as a state's attorney."

Calling themselves the "Coalition for Justice," the group asked Johnson to pursue further criminal charges against Carney after he admitted in April 1997 to killing Barnes. In his original defense, Carney's attorney, public defender Wendell Bates, claimed that his client was spurred to murder after Barnes attempted to force him into a "deviant" and "unnatural" sexual encounter. This "homosexual panic" defense is similar to that used by Matthew Shepard's alleged killers, who claim they were driven to kill Shepard after he made a pass at them.

"I will not deny I used words to that effect," said Bates. "I had to since Carney did not take the witness stand. He said that [Barnes] tried to force him."

"The anti-gay rhetoric invoked during the trial suggests that murder is an acceptable response to encountering someone who is gay or who allegedly makes homosexual advances," said DC Lesbian Avenger Jennifer Margiotta.

Prosecutor Dorry Ipolito is troubled by assertions that Carney used the "homosexual panic" defense, as Carney never took the stand at all. While she would not say that the jury was motivated by homophobia, she did admit "it was pretty clear to me that it was a murder."



Charles Carney, left, and Anthony "Gabriel" Barnes.

A jury acquitted Carney of first and second-degree murder in May of this year, regardless of his admission of guilt. They hung on the charge of manslaughter.

"When the jury came back with 'not guilty,' to say I was shocked would be the understatement of the year," said Ipolito. "There was a confession by Carney. There were clearly things in Carney's statement that led to [a conviction of] murder."

In his sentencing, Johnson answered the pleas of coalition members, including gay man Brian Scott, a former member of the Prince George's County Human Relations Commission, who demanded that "this confessed killer must be brought to justice."

In early correspondence to members of the coalition, Johnson expressed his disappointment in the jury's decision, and maintained that

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the state's attorney's office did everything in its power to convict Carney on first degree murder. In addition, Johnson said that he did not support the homosexual panic defense used in the trial.

"The issues concerning homosexuality...were advanced by the defense, and we tried as hard as we could to overcome those issues," wrote Johnson in a letter dated Oct. 22. "I wish I could rid the world of prejudice, but I cannot. I can assure you that as a human being and as a public servant, I will never make a decision based on a person's race, religion, or sexuality."

"We have to look at this case as a violation of civil rights," said Johnson in a recent interview. "It should be unethical and an invalid defense when any of these issues [race, gender, sexual orientation] are raised as a defense to a crime."

In response to this case, Johnson has said that he will support efforts to add sexual orientation to Maryland's hate crimes legislation. In addition, he vowed to discuss the issue at the next board meeting of the office of the state's attorney, in an effort to

enlist their support.

"I looked at it this way—at least I got a conviction, he's serving time, and that brings closure to the family," said Ipolito. "I cried my eyes out—[the papers] made it look like we don't care about gay people. Bernie Nelson, the lead investigator, worked his tail off on this case. He did everything in his power. But the wild card is always the jury. When you go to trial, you are trusting in 12 people. That verdict hurt—it still hurts."

"In my heart of hearts, this hurt to my soul," added Ipolito. "I will bring this case to my grave."

Carney, who was in a Lorton prison for an unrelated vehicle theft when he was brought up on the charges of homicide and manslaughter, will return to Lorton to finish time for his previous offense. He will also receive a one and a half year reprise for time served. After he has served the remainder of his time in Lorton, VA, he will be transferred to Maryland to serve remaining time in either the Maryland House of Corrections at Jessup or the Maryland Penitentiary. He will be eligible for parole in three years.