



UNHEARD VOICES

Stories of LGBT History



James Dale Takes on the Boy Scouts of America

Introduction to the Interview (Running Time: 1:30)

In 2000, the United States Supreme Court ruled that the Boy Scouts of America (BSA) could refuse membership to people who identify as gay. It was a ten-year court battle.

The plaintiff in the case was James Dale, who began scouting when he was eight years old. By the time he entered Rutgers University he had achieved the rank of Eagle Scout.

Here, James remembers how he ended up as a lightning rod for gay rights in the United States.

Questions to Discuss with Students Following the Interview

- When James spoke out on gay issues, he felt he was doing what he was taught in the Boy Scouts—“taking a leadership role, being active and being visible.” Do you think James’ sexual orientation or activism on gay rights is incompatible with being a scout? Why or why not? Why do you think the Boy Scouts of America felt that James’ activities were inconsistent with scouting?
- The letter James received from the Boy Scouts said that “avowed homosexuals are not permitted in the Boy Scouts of America.” Are there any other groups that the Boy Scouts prohibit? (The BSA does not allow girls or atheists/non-religious people to be members.) Do you agree with the Boy Scouts’ policies on membership? Why or why not? Why do you think the Boy Scouts have held firm to their policies even as other organizations (such as Girl Scouts of the USA and The Scout Association in the UK) have updated their policies to reflect the changing attitudes of society?
- James said that “seeing those words in that letter, I wasn’t going to walk away from it.” What would you have done in James’ situation? What personal qualities do you think it takes for someone to stand up for what he believes is right?
- In 2000 the U.S. Supreme Court ruled that opposition to homosexuality is part of the BSA’s “expressive message” and protected by the First Amendment. Regardless of your personal feelings, do you think that the BSA should have a legal right to exclude groups that they don’t feel reflect their purpose or mission? Why or why not?
- James felt “blindsided” when the Boy Scouts excluded him because scouting had always been something that made him feel “important and valuable and connected.” Have you ever experienced a similar dilemma, where there is a conflict or disconnect between positive and negative aspects of a group? How did you resolve that problem?
- Speaking about his parents’ struggle with his activism on gay rights, James says that his “parents did the right thing before they fully accepted the right thing.” Which do you think comes first—change in behavior or change in attitude? What strategies would you employ to try and change someone’s behavior or attitude on an issue that is important to you?

Suggested Activities and Assignments for Extended Learning

- Ask students if they have ever been excluded from a group that was important to them. Have them create a piece of artwork, poetry, reflective writing, etc., that explores how that experience impacted them. Have volunteers share their reflections. Discuss how their personal experiences with exclusion relate to James Dale's experience with the Boy Scouts.
- Assign students to research the membership policies of various youth leadership groups in which they are involved (e.g., Girl Scouts of the USA, Boys & Girls Clubs of America, Camp Fire USA, etc.). Have them compare and contrast the policies with one another and with the Boy Scouts of America policy. Discuss the pros and cons of policies that limit membership in some way.
- At age 12, Steven Cozza started Scouting for All (www.scoutingforall.org), a group dedicated to overturning the Boy Scouts of America's ban on gay members. He was motivated in part by his respect for a family friend who is gay. Have students read about Cozza or watch the documentary film, *Scout's Honor* (2001), which chronicles his story. Engage students in a discussion about what it takes to be an ally to others who have been targeted by prejudice or discrimination. Challenge students to identify a social issue about which they care and to develop an action plan for getting involved as an ally.
- James Dale was motivated to fight for his rights in part by the LGBT rights movement of the 1980s. Assign small groups of students to each research one prominent LGBT group (e.g., ACT UP, Queer Nation) and/or prominent activist (e.g., Cleve Jones, Larry Kramer, Urvashi Vaid) from this era. Have each group write a summary and create a graphic representation highlighting what they learned. Create a large collage out of the different graphic representations to put on display.
- *Boy Scouts of America v. Dale* was one of many cases challenging the BSA's policy on LGBT members. Assign small groups of students to each research another case (see, for example, www.bsa-discrimination.org) and to report back on the legal rationale for each decision. Engage the class in a debate on whether anti-discrimination concerns or First Amendment concerns (i.e., freedom of expression, freedom of association) should take precedence in such cases. The following is a partial listing of relevant cases:
 - *Timothy Curran v. Mount Diablo Council of the Boy Scouts of America*
 - *Charles Merino v. San Diego County Council of Boy Scouts*
 - *R.D. Pool & M.S. Geller v. Boy Scouts of America*
 - *Chicago Area Council of Boy Scouts of America v. The City of Chicago Commission on Human Relations, G. Keith Richardson*
 - *Winkler v. City of Chicago*
 - *Cradle of Liberty Council v. City of Philadelphia* (Note: This case is distinct from the others in that it doesn't involve the refusal of membership to an individual, but rather the city of Philadelphia's effort to evict the local BSA group from the headquarters it built and has occupied, rent-free, for 81 years on city-owned property.)



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Student Handout



James Dale

“When I was a gay kid growing up in suburban New Jersey,” reflects James Dale, “the Boy Scouts made me feel good about myself. They taught me to have self-respect and how to be a leader...It allowed for individuality...I wasn’t the best track star or football or soccer player. In Scouting I didn’t have to be. They let me be myself.”

As a young boy, James could never have imagined that one day he’d challenge the organization he loved in the nation’s highest court. During his 11 years as a dedicated Scout, James earned 33 merit badges and the Eagle Scout Award. He was elected into the Order of the Arrow and served as chairman of his lodge’s Vigil Honor Society.

When James entered college in 1988, he continued with the Scouts as an Assistant Scoutmaster. During his second year at Rutgers University, James decided to be open about his sexual orientation and became co-president of his campus’ Lesbian and Gay Alliance. At the time, it never occurred to James that these two interests conflicted. “I was pretty much doing what I was taught in the Boy Scouts,” he explains, “to get involved, take a leadership role, to be active, to be visible.”

After an article about James’ involvement in LGBT rights appeared in a local newspaper, he received a letter from the Boy Scouts of America (BSA) saying that he didn’t meet their standards for leadership, and ultimately that “avowed homosexuals are not permitted” in the BSA. “I felt betrayal, a tremendous amount of sadness and disappointment,” remembers James. “[Boy Scouts] was *the* thing that I did when I was younger. To have them suddenly say, ‘You’re gay, you’re out,’ was painful...I also felt anger...seeing those words in that letter, I wasn’t going to walk away from it.”

James was not the first person to challenge the idea that being LGBT is at odds with the BSA mission “to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Law.” As far back as 1980, Eagle Scout Tim Curran entered into a long legal battle with BSA after he took his boyfriend to a school prom and was excluded from the organization. Since that time, numerous Scouts and Scout leaders have challenged the BSA’s membership policies in court. James decided he would wage the next battle.

Ironically, James’ decision to fight for his rights was motivated by his experience as a Scout. “I think it was the integrity and strength of character that came from the Boy Scouts,” he explains, “and justice and that bigger picture patriotic belief in American society and who we are.”

James was also inspired by the climate around LGBT rights that was heating up throughout the nation. Inaction in response to the growing AIDS epidemic and the deaths of thousands of gay people gave rise to aggressive new organizations—such as ACT UP and Queer Nation—and a more forceful approach to LGBT rights. “I was a student at Rutgers,” recalls James, “and I’d come...to ACT UP meetings where there’d be 600 people in a room focusing on changing laws and changing policy and empowerment. So much of the power of the gay and lesbian civil rights movement of the ‘80s was probably my catalyst for standing up for myself.”

James relied on the determination he learned from the Scouts and the courage inspired by LGBT activists to get him through nearly a decade of court battles. Between 1992 and 1999, James experienced victories and setbacks as his case made its way through the New Jersey court system. “The first judge in the case called me a sodomite and quoted brimstone and fire,” describes James. “Then the appellate level court ruled two to one in favor, which was great. That was appealed to the New Jersey Supreme Court, which ruled unanimously in my favor. Never before had a state supreme court handed down such a strong unanimous decision on a gay and lesbian civil rights issue...It was big, it was really exciting, I felt vindicated...I felt empowered. It was an amazing time.”

In 2000 James’ case was heard by the United States Supreme Court, which was the first time that the nation’s highest court had considered a challenge to the Boy Scouts policy excluding LGBT people. “When it went to the United States Supreme Court it was a totally different ballpark,” recalls James. “It was a totally different level of intensity. I felt a very different weight on my shoulders that was hard to deal with personally. I felt that it was so much bigger than me.”

On June 28, 2000, in a narrow 5–4 vote, the U.S. Supreme Court ruled that New Jersey could not use its anti-discrimination law to force the Boy Scouts to accept gay members. The court’s majority opinion stated that forcing a private group to accept certain members would violate that group’s First Amendment rights to express its views and associate with people who reflect those views.

In his dissenting opinion, Justice John Paul Stevens wrote that “Every state law prohibiting discrimination is designed to replace prejudice with principle” and warned that “ancient” prejudices against LGBT people could be worsened by the “creation of a constitutional shield” that protected discriminatory policies such as the Boy Scouts ban on LGBT people.

At a news conference following the decision, James said, “I’ve spent nearly half of my life in Scouting, so obviously this decision is disappointing. But if I learned anything during my years as a Scout, it was to believe that justice will prevail. America realizes that discrimination is wrong, even if the Boy Scouts don’t know that yet.”

Ten years after the historic case, James—a 40-year-old advertising professional in New York City—is still passionate about the cause he took up as a teenager. “They’re essentially telling kids that if someone is gay—if they are themselves gay—that they’re not equal...that they’re not worth as much as another kid, so it’s a very damning and damaging message that they send to young people, both gay and non-gay. No kid should be taught that discrimination or bigotry is acceptable or an American value.”