

## Court to challenge Jamaica TV stations ban on pro-gay ads

A Jamaican court has begun a historic deliberation on whether two Jamaican TV stations rejection to air paid pro-gay ads breached the country's constitution

Maurice Tomlinson, a Jamaican gay activist, had recently sued the two station alleging they breached Jamaica's constitutional charter on fundamental rights and freedoms by refusing the air the pro-gay ads. During the first hearing on 12 December the court assigned three judges for the constitutional case and marked the next formal hearing to take place from 27 to the 31 of May, 2013. It is the first time that a case between two 'private' individuals has dealt with such a constitutional challenge, as the TV stations are defined as 'private citizens' and are being sued by Tomlinson, who is also a lawyer for the NGO AIDS-Free world, for a breach of a constitutional right. South Africa is the only other country where such a legal challenge is possible. The TV stations, TVJ and CVM, are represented by well-respected senior counsel, emphasizing yet again the significance of the case. At the preliminary hearing, it became clear that the TV stations will argue three points: First, a TV station can refuse to air a paid advertisement that is consistent with all broadcasting regulations, if it believes the ad will cause them a loss of revenue or decline in ratings. Second, a TV station can refuse to air a paid advertisement that is consistent with all broadcasting regulations, if it believes that the staff and facilities will be put at risk as a result of the public response. Third, the airing of 'Love and Respect', an ad featuring Tomlinson, amounts to 'promotion' of an illegal activity. Tomlinson however believes that all three arguments are specious. Both TV stations have admitted to previously airing pro-gay material in the past without any real repercussions whatsoever. Speaking with Gay Star News Tomlinson said: 'For some time powerful Jamaican fundamentalist religious groups have used their extensive contacts with the Jamaican media to demonize gays. Research has shown that the only way to change the hearts and minds of Jamaicans towards LGBT is to have them see the normal reality of gay citizens' lives. The media has a key role to play in communicating this message and we are therefore fighting for the right to have equal access to the media just like the religious groups'. The case will therefore, according to local campaigners, attract the attention of human rights activists in the Caribbean and around the world. AIDS-Free World hopes and expects that the United Nations family in particular will speak out in support of Tomlinson's legal challenge. Tomlinson also told GSN that 'The UN has a special duty when it knows that discrimination against LGBT people leads, inexorably, to higher rates of HIV infection. The Executive Director of UNAIDS has made strong public statements consistent with the recent sentiments of the Secretary-General of the United Nations, who called for a world-wide end to discrimination against LGBT people. This constitutional challenge in Jamaica provides an opportunity for the regional UNAIDS leadership to make its voice heard. The time for moral lethargy is over'.