

News

Colorado Lesbian Custody Case Goes Back to Lower Court

By Ellen Wright

A Colorado court of appeals threw out a lower court's order that barred a woman who left a lesbian relationship from teaching her adopted daughter what could be considered homophobic. The ruling doesn't settle the matter, but rather sends the case back to the lower court to determine whether anti-gay religious teachings from one adoptive parents violates the First Amendment rights of the other.

The case has drawn national attention from conservative, anti-gay organizations who unsuccessfully attempted to impeach the Denver district judge who issued the order barring the homophobic teachings.

Cheryl Clark, a psychiatrist, and Elsey McLeod, a psychologist, had been in a relationship and lived together when they decided to adopt a baby from China. However, because both Chinese and Colorado laws don't provide for joint adoption by same-sex couples, only Clark was listed as the legal parent. The two women sent out arrival announcements where they were both listed as mothers. The child referred to one parent as "Momma" and the other as "Mommy." Clark added McLeod's name to her daughter's name, and changed her will to ensure that McLeod would have custody of their child in the event of Clark's death.

Judge John W. Coughlin granted joint custody of the girl to Clark and McLeod, who split up after Clark converted to a conservative type of Christianity. The appeals court did uphold the lower court's decision to grant McLeod joint custody, even though adoption papers only list Clark as the adoptive parent. The appeals court said McLeod had become the child's "psychological parent" and that ending or curtailing visitation would put the girl at risk of "emotional harm."

In the custody settlement, Coughlin gave Clark sole responsibility for the child's upbringing, including religious instruction, but added the restriction against homophobic teachings. McLeod's attorneys argued that the order was designed simply to protect McLeod's relationship with the child, and that divorcing husbands and wives are told not to disparage each other in front of their children.

However, Clark's attorneys said the court order was so broad that it could potentially include everything from saying anything bad about homosexuals to teaching against homosexuality. Her legal team claimed it could even require Clark to block out or remove portions of the Bible before their nine-year-old daughter reads it. The appeals court ordered Coughlin to decide whether the ban on homophobic instruction violates Clark's First Amendment rights to control her daughter's religious upbringing.

Clark has received legal support from the Alliance Defense Fund, based in Scottsdale, Ariz. The Alliance Defense Fund has challenged several pro-gay measures in California, including San Francisco Mayor Gavin Newsom's issuance of marriage licenses to same-sex couples.

News

Name Change Granted for Gwen Araujo

By Michelle Norris

One week after a mistrial was declared in the murder case of Gwen Araujo, a California superior court approved a posthumous name change for the slain transgender teenager who was savagely beaten and strangled in October 2002.

Jurors deadlocked over whether Araujo's attackers were guilty of first or second degree murder. According to the Alameda County District Attorney's Office, none of the jurors were willing to settle for the lesser offense of manslaughter, in spite of efforts by defense attorneys to argue that Araujo's killers were somehow justified because she did not disclose her transgender identity to them. The prosecutor has stated that he will re-try the three defendants—Michael Magidson, Jose Merel and Jason Cazares.

"Because the defense team tried to make this a trial about Gwen's gender identity instead of the defendants' conduct, a lot of us were anxious about this verdict," said Christopher Daley, co-director of the Transgender Law Center. "Even though I am disappointed by the delay in achieving justice for Gwen, I am heartened that these jurors refused to let these young men escape responsibility for their horrific choices."

Araujo's mother, Sylvia Guerrero, requested the name

change—from Eddie Araujo, Jr. to Gwen Amber Rose Araujo—in May of this year. The Transgender Law Center helped secure the legal name change. "She's Gwen to me, and I'm her mother," Guerrero said in her request to the court for the name change. "This is who she was. She's transgendered, and she's Gwen."

Guerrero added: "I'm elated for Gwen, my family, and our friends. This is something that all of us have been waiting too long for. It is one of my regrets that I didn't call my daughter Gwen more while she was alive. Having this order granted helps me to put that regret to rest."

Daley said the name change is not just important symbolically, but has particular importance as the case goes back for retrial. "Make no mistake, this court order is not a symbolic document," Daley said. "Due to [the] mistrial, Gwen's name and identity will once again be subject to unprincipled attacks from the same defense attorneys who have spent the last several months disrespecting her. It is my strong hope that as we move towards a retrial for their clients, each of these attorneys will give this order the respect it demands by referring to Gwen by her legal name."

News

Gay Family Cruise Greeted with Cheers, Jeers

By Michelle Norris

The first R Family Vacations cruise set sail on July 11 with approximately 1,600 passengers for a seven-day venture from New York City to the Bahamas and back. The cruise, marketed to lesbian and gay parents and their families, also included many extended family members and friends, as well as a number of lesbians and gay men considering parenthood.

The cruise—on the *Norwegian Dawn*—offered a diverse range of activities, speakers and entertainment, including several Broadway singers and dancers, comedian Joy Behar of *The View*, former professional football player Esera Tuaolo, comedian Judy Gold, Democratic activist Chrissy Gephardt, former Human Rights Campaign director Elizabeth Birch, corporate editorial director for the *Advocate* and *Out* magazines Judy Weider, Malcolm X's daughter, Ms. Shabazz and author Abigail Garner. Workshops on a range of gay parenting issues were presented by the Family Pride Coalition.

R Family Vacations was founded by Kelli O'Donnell, her partner Rosie O'Donnell and Gregg Kaminsky to provide family-friendly vacations for gay and lesbian parents and their children.

At its stop in Key West, passengers were greeted enthusiastically. The Key West Business Guild hosted a street festival and declared the day R Family Vacations Cruise Day in Key West. Kelli and

Rosie O'Donnell received the key to the city from the mayor.

However, at a stop in Nassau, Bahamas two days later, R Family participants were greeted by approximately 100 protesters as they left the ship. The protesters gathered in a small public square near the cruise ship terminal chanted and held signs that said "Gay ways are not God's ways!" and "If you're openly gay, stay away." As the first passengers stepped out, the protesters moved within a few feet of them, holding up small children and yelling. Police eventually moved the protesters back. As the protest dispersed, a handful of the protesters were seen walking down some of Nassau's commercial streets still waving their signs.

The protest capped a week that was primarily vacation for the families on board, but also full of political wrangling. Early in the week of the cruise during a stop in Port Canaveral, O'Donnell spoke out against the proposed Federal Marriage Amendment (FMA) and the politics of division. The FMA failed later that week in the Senate.

"This is a cruise where everyone is welcome," she said, adding that an integrated society "is what America is all about. With liberty and justice for all, not just the white friends of George W. Bush."

News

Yukon Becomes Fourth Canadian Region to Allow Same-Sex Marriage

By Ellen Wright

In July, Yukon became the fourth Canadian district to legalize marriage for same-sex couples, when a judge changed the territory's common law definition of marriage to mean the voluntary union for life of two people to the exclusion of all others. Justice Peter McIntyre delivered the decision to a packed Yukon Supreme Court hearing, following similar rulings providing marriage equality for same-sex couples in Quebec, Ontario and British Columbia.

Prior to McIntyre's decision, Yukon common law had limited marriage to a union between a man and a woman. "The [old] common law definition of marriage is unconstitutional," McIntyre said. The federal attorney general had asked the Yukon court to delay its decision until the Supreme Court of Canada hears arguments on same-sex marriage in October. McIntyre refused, saying that "a legally unacceptable result would be perpetuated in the Yukon" if he delayed the decision.

Yukon residents Stephen Dunbar and Rob Edge were refused a marriage license in January by the Yukon vital statistics office. The two then took their case to the Yukon Human Rights Commission, filing a petition with the courts in early June. Dunbar rejected the federal government's suggestion that they hold the wedding and be issued a license retroactively once the federal parliament decides on the issue.

"It would have felt like a hollow marriage," Dunbar said. "It was unacceptable, and that is why we were in court [today]." In his decision, McIntyre also ordered the federal and territorial governments to split the costs of the couple's two lawyers.

Egale, a national gay and lesbian advocacy group, was also pleased with McIntyre's decision. "This ruling sends a message that governments across the country must now accept the Charter right of same-sex couples to marry in a civil ceremony," said Laurie Arron, Egale's director of advocacy. "There is one law for the whole country, and that law includes same-sex couples. Governments who don't accept that are leaving themselves open to legal challenges and liability for costs."

However, ultra-conservative groups in Canada—similar to their American counterparts—are calling the decision an unwarranted form of judicial activism. "Canada's Supreme Court is scheduled to hear all the arguments on this issue and elected members of parliament will debate it soon," said Derek Rogusky, Focus on the Family's Canadian vice president in a written statement. "There was no need for an unelected Yukon Territory judge to ignore this process. The people of the Yukon and their elected representatives should be the ones to decide whether or not to alter their understanding of marriage."

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