

Q Notes

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Sheriff breaks the law to out high school coach

by David Stout
Q-Notes Staff

BAKERSVILLE, NC—As part of a settlement with the local District Attorney's office, Mitchell County Sheriff Vernon Bishop will be allowed to keep his job even though he admitted ordering deputies to illegally intercept a high school football coach's telephone conversations to prove that the man was gay and to get him fired from his job.

In 1995, Bishop instructed his deputies to use their police scanners to monitor the phone calls of the coach — who was unnamed in court documents though well known amongst locals in this small Western NC county — because he said he suspected the man of conspiring to commit sodomy.

The court settlement was reached September 4 in a two-hour, closed-door meeting after three days of hearings. District Attorney Tom Rusher had originally asked Judge Howard Manning, Jr. to remove Bishop for apparently violating the law since recording a private telephone conversation without the consent of a judge or at least one of the involved parties is a federal offense, but agreed to drop the case in exchange for an official apology and a half-month's salary — about \$1590 — instead. Rusher labeled the settlement "appropriate" and

said he agreed to it because the coach was afraid that continuing the hearings would create more publicity.

During the hearings, school officials related that Bishop presented them with a tape of a phone conversation and threatened to make it public if they didn't fire the coach. Although he had been employed with the school since 1983

he procured the tape, claiming that an anonymous citizen left it on his desk. When they challenged his story and threatened to pursue the case, Stone said Bishop fired back. "He said we didn't have a chance because there was no evidence." He also reportedly asked the agents, "Was one queer football coach really worth all this?"

When Rusher learned of the possible offense, he took it to a grand jury, seeking an indictment for violation of a state law forbidding the interception of telephone calls. When the grand jury declined to charge Bishop, Rusher filed a court motion to have the sheriff removed.

To end the proceedings, Bishop offered a statement that read, in part, "While I have strong personal feelings that persons who follow certain lifestyles should not be employed in particular areas of the public school system, I realize that every citizen is entitled to recognition of his privacy."

When he had finished, Judge Manning chastised him. "You are charged with protecting everybody's rights. If you don't want to, you shouldn't be in office."

Outside the courtroom, Bishop, who was appointed sheriff in 1992 and elected to a four-year term in 1994, expressed confidence that he will be re-elected by Mitchell County voters next year. He would not comment on the court case with reporters.

The settlement does not affect the possibility of federal charges being filed against Sheriff Bishop in the future. ▼

"Was one queer football coach really worth all this?" — Sheriff Bishop

and was considered a good employee, the football instructor was called in for a meeting during which he resigned to avoid a scandal.

Because of the anguish that the investigation caused him, the coach didn't have any part in the hearings, or even want them to happen in the first place. "We've told everybody involved that this man just wants to be left alone," said the coach's lawyer Dennis Howell. "Just let him go on with his life. What happened to him was bad enough. All this attention is just making it worse."

The situation might never have come to light had one of the deputies not discussed it during a law enforcement job interview in another city. The incident was then reported to the State Bureau of Investigations (SBI) which initiated an inquiry into the charge.

During the hearings, SBI agent Vance Stone testified that Bishop lied when agents asked how



Ellen's mom leads Coming Out Project

by David M. Smith
Special to Q-Notes

LOS ANGELES—Betty DeGeneres, the mother of actress and comedian Ellen DeGeneres, will serve as spokesperson for the National Coming Out Project its sponsor, the Human Rights Campaign (HRC), announced September 8.

"Ending discrimination based on sexual orientation is a family issue, and we are so grateful Betty DeGeneres will be driving that message home," said HRC Executive Director Elizabeth Birch. "She'll be encouraging gay people to come out and be honest, while also urging our fair-minded friends and family members to come out for equal rights."

As 1997-98 spokesperson, DeGeneres will appear in television and print public service announcements and will speak throughout the country to promote honesty and openness about being gay or, as in her case, having a gay family member and supporting equal rights for gay people.

"As long as our gay sons and daughters face discrimination and are excluded from the basic protection of our laws, I will urge all American families to come out for fairness," said DeGeneres. "I am thrilled at this wonderful opportunity to talk with gay and straight Americans about the importance of coming out, because honesty truly is the best policy."

HRC's public education campaign featuring Betty DeGeneres will kick off in time for National Coming Out Day on October 11, the observance created in 1988 to recognize the importance of coming out and to honor the anniversary of the 1987 March on Washington for lesbian and gay equal rights. HRC's National Coming Out Project is an ongoing campaign to encourage and assist gay people to be honest about their lives; provide guidance to campus groups and individuals dealing with coming out; and sponsor National Coming Out Day events.

The selection of DeGeneres marks the first time HRC has named a heterosexual to serve as a National Coming Out Project spokesperson. In past years, public figures chosen for that role were gay and included Amanda Bearse of Fox-TV's *Married...With Children*, Candace Gingrich, Chastity Bono, Dan Butler of NBC's *Frasier* and Sean Sasser, formerly of MTV.

"The fact that Betty is a concerned mom underscores the point that ending discrimination based on sexual orientation is not just of See PROJECT on page 27

Judge says lesbian custody case should go forward

by David Stout
Q-Notes Staff

DURHAM—A District Court judge ruled August 29 that adoptions among gay or lesbian couples performed in other states are recognized under North Carolina law and cleared the way for a custody battle between former lesbian partners to proceed.

District Court Judge Elaine O'Neal said that allowing the custody hearing to go forward would not conflict with a prohibition on same-sex marriage that was enacted last year.

In her five-page ruling, she declared, "Enforcing the adoption decree does not require North Carolina to recognize same-sex marriages. Enforcing the decree simply allows the court to determine custody of the child."

After being artificially inseminated, Sheryl Rose Erez gave birth to a baby girl in 1993 in Washington state. The following year, she and her partner, Aviva Shira Starr, successfully peti-

tioned the court for an adoption decree recognizing Starr as the child's co-parent. In 1995, they moved to NC.

They raised the child jointly until separating in October 1996. After the split, Erez moved to Georgia and left the girl with Starr. A month later, Erez began her drive to regain sole custody of her daughter.

In a preemptive strike, Erez's attorney, Martha Milam, filed a motion to have Starr's adoption rights voided. The NC General Assembly passed a bill last year that prohibited state acknowledgment of same-sex marriages, even those performed in other places. Milam contended that if the court presided over a custody case between lesbians, it would be sanctioning the legitimacy of their "marriage."

Sharon Thompson, Starr's attorney and a member of NC-GALA, a statewide organization for gay and gay-supportive attorneys, argued that the Constitution's "full faith and

credit" clause forced every state to recognize an adoption performed in any other.

In her finding, Judge O'Neal wrote that the law would not be "sufficiently offended" to nullify the adoption. She also noted that, "North Carolina has no public policy denying parental status to an individual based upon that person's sexual preferences."

A hearing to determine whether the girl should remain with Starr or be placed with her birth mother was scheduled. Possibly giving some insight into her thoughts on this, O'Neal indicated that Erez may have forfeited her "paramount interest" in the child by cultivating the parental relationship between Starr and her daughter and by leaving the girl with Starr.

Following the judgment, Thompson told the Associated Press, "We are seeing more and more nontraditional families these days. Unfortunately, some of them will split up. But we must focus on the best interests of the child." ▼

Military ban upheld again by a Court of Appeals

by Julia Adams
Special to Q-Notes

SEATTLE, WA—The Ninth Circuit Court of Appeals became the third circuit court of appeals to uphold the constitutionality of "Don't Ask, Don't Tell, Don't Pursue" in the case of *Holmes/Watson v. Perry*. No court of appeals to date has struck down the policy which prohibits gay servicemembers from telling anyone about their sexual orientation.

Writing for the majority, Judge Charles Wiggins ruled in a 2-1 decision on September 8 that the court was not in a position to "judge the wisdom, fairness or logic of legislative choices" and that the court owed special "deference" to the military. Judge Wiggins ruled that in light of its deference to Congress and the military on military personnel issues, the discharge of servicemembers who say that they are gay did not raise concerns about their rights to

free speech or equal protection of the laws. Judge Thomas Reavley, sitting by designation from the Fifth Circuit Court of Appeals in Texas, joined the majority opinion.

In a dissenting opinion, Judge Stephen Reinhardt took the majority to task, concluding that "punishing speech that does no more than acknowledge a permissible status violates the First Amendment." Judge Reinhardt added, "'Don't Ask, Don't Tell' seems entirely inconsistent with the proud traditions of our armed services, with slogans such as Duty, Honor, Country..."

The case before the Ninth Circuit Court of Appeals involved two separate cases challenging "Don't Ask, Don't Tell,

Don't Pursue" that had been consolidated by the court on appeal. The first case was that of Lieutenant Andrew Holmes of the California National Guard. A district court had ruled in April 1996 that Holmes' discharge violated his constitutional rights, comparing the policy to Jim Crow laws.

The second case involved an appeal by Navy Lieutenant Rich Watson from a district court opinion that ruled that "Don't Ask, Don't Tell, Don't Pursue" was constitutional.

C. Dixon Osburn, co-executive director of Servicemembers Legal Defense Network (SLDN), called the decision "a great disappointment." Osburn said, "As long as the courts abdicate their See MILITARY on page 17

