

Q Notes

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Published Every Two Weeks On Recycled Paper • Volume 11, Number 5 • July 27, 1996 • FREE

Appeals Court says that state can end anonymous testing

by David Jones
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RALEIGH—On July 16 the North Carolina Court of Appeals ruled that the state has the authority to immediately end all anonymous HIV testing. But, the rationale for this decision raises a whole new set of legal issues which could keep court fights going for years or even send the matter to the state legislature.

When the court decision was announced, the state health department sent e-mail notices to all local health departments announcing that anonymous HIV testing would end August 5, 1996. ACT UP/Triangle, the plaintiff in the suit, promptly responded that it would file an appeal with the state Supreme Court. According to group member Steve Harris, ACT UP expected to file its motion within a matter of days.

Reportedly, ACT UP will ask the Supreme Court to hear its appeal and issue a stay, or suspension, of the appeals court decision while the case is being considered. If a stay is issued, anonymous HIV testing could continue to be available for one to two years while the Supreme Court considers the matter. If the Supreme Court declines to hear the appeal, or decides to hear it without suspending the current decision, anonymous testing will end August 5.

However, all of the controversy over HIV testing policy may now take a back seat to a whole set of new legal issues that were raised by the court's decision. This could mean that a new set of players might join in to support ACT UP's appeal — even conservative business interests — which could keep the legal battles going for years.

In issuing its ruling, the Court of Appeals announced that courts do not have jurisdiction to hear appeals from administrative rule-making bodies — as long as they followed the proper procedures in making their rules. Rule-making bodies, such as the Health Services Commission, are independent bodies which approve regulations to implement state law. The Health Services Commission hears proposals for regulations on health-related matters ranging from the purity of bottled water to waste disposal systems to AIDS testing. Numerous other commissions act on regulatory proposals from every department of state government.

Stewart Fisher, ACT UP's lawyer, told Q-Notes that he was "very surprised" at the rationale used by the appeals court to deny the petition. "There is an important issue of law here, in addition to health policy," he said. "This court is saying that there is no appeal to the courts of administrative decisions. There has to be a way to appeal rule-making decisions because the courts are there to decide whether some act violates the Constitution." Harris was more blunt, saying that he was "shocked that the court took the easy way out and didn't rule on the issues before it."

As word of the court's reasoning spread, there was a buzz among lawyers about it. The state Trial Lawyers Association and the American Civil Liberties Union were said to be busy discussing whether they should try to intervene and support ACT UP's appeal. Even traditionally conservative business interests are affected by the ruling, since contractors, developers and property owners all have issues before the

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Photo by Eagle White

On Wednesday, July 17, the NC General Assembly was treated to a gay double wedding. Mab Segrest (pictured center), a self-professed "ordained lesbian," presided over the vows between Glenn Martin and John Mark Stephens and Ana Van de Winter and Joy Brudenell. After the ceremony, attendees invited legislators to come outside and join the reception.

Anti-marriage measure advances in Congress

by Susan Tedder
Q-Notes Staff

WASHINGTON, DC—The Senate Judiciary Committee held a hearing in mid-July on the Defense of Marriage Act (DOMA), while across the Capitol, the House was passing it 342-67 with two members voting "present," the equivalent of an abstention. Both events were characterized by bitter rhetoric, with opponents of the bill decrying it as unnecessary and nothing more than election year gay-bashing, and supporters claiming the measure is needed because Hawaii is on the verge of approving same-sex marriage, and, somehow, that will destroy the fabric of society as we know it.

Openly gay lawmakers spoke of their own relationships during the discussion to underscore their opposition to the bill. "What are you protecting, what marriage is under attack...how does the fact that I love another man and live in a committed relationship with him threaten your marriage?" asked Rep. Barney Frank (D-MA). What he was arguing against is virtually summed up by Rep. Steve Largent (R-OK) who said, "It is a frontal assault on the institution of marriage and if successful, will demolish the institution." He then charged that if same-sex marriages were allowed, society might next condone bigamy and marriages between children and adults.

Gary Bauer, president of the conservative Family Research Council, denied that this was a bigoted move on the part of Congress. "It is not hatred to support normalcy," he said.

The "Defense of Marriage Act" would define marriage as the union between a man and a woman, for the first time allowing the federal government into the question of what makes a marriage, and is encouraging states to disregard the US Constitution's Full Faith and Credit clause. It would withhold federal recognition of same-sex marriages, denying Social Security, veterans' and other benefits to such unions. It also says states need not recognize such marriages made in other states, a power opponents of the bill say the states have already.

Matthew Coles, Director of the ACLU's National Lesbian and Gay Rights Project, explained that The Full Faith and Credit Clause absolutely requires states to honor the judgments of other state courts — including divorce,

inheritance and commercial judgments — which often take into account marital status. To that extent, the bill is an "unmistakable violation of the Constitution," Coles said. "At this moment, gay men or lesbians can lose their homes to the government when a partner becomes ill, are barred from intensive care units when their partners are desperately ill, or lose everything when a partner dies because society refuses to recognize their relationships," he continued.

Opponents are clear in their conviction that those who want DOMA to pass so badly are wasting their time and the taxpayer's money. Clearly seen as an election year ploy, even by the White House, the right continues to bully it through Congress to the promised presidential signature. However, before the bill goes to the Senate floor, Sen. Edward Kennedy (D-MA), Sen. James Jeffords (R-VT) and Sen. Joseph Lieberman (D-CT) are planning to get the Employment Non-Discrimination Act (ENDA) attached as an amendment to DOMA.

"During the remaining weeks of this Congress, the Senate should turn its attention to legislation that will enhance the lives of Americans," the senators wrote. "If America is to compete in a global economy, all Americans must be able to contribute. The price of prejudice is too high."

Senator Kennedy reflected his opinion of the bill by stating, "I regret that the committee is spending time on this offensive, unnecessary and divisive legislation. The bill before us is called the Defense of Marriage Act, but a more accurate title would be the Defense of Intolerance Act — or even more accurately, the Defense of Endangered Republican Candidates Act."

On an interesting note, administration officials have told the Human Rights Campaign that President Clinton supports the plan to attach ENDA as an amendment to the marriage bill. "The president strongly opposes discrimination against any group of Americans, including gay and lesbian individuals, and he supports legislation to outlaw such discrimination in the workplace," the spokesperson said in an address to Congress.

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Friends Lounge closes its doors

by Wynn Bone
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JACKSONVILLE, NC—After 15 years under the ownership of Danny Leonard, Friends Lounge served its last drink and closed its doors for good on Saturday, July 6. The bar, which was located in a modest cinderblock building across the highway from Camp Lejeune Marine Base, had a much more significant role in gay history than its unassuming appearance would ever suggest.

Leonard, who is better-known as the drag diva Brandy Alexander, arrived in Jacksonville in 1981 after buying Friends Lounge. He soon recognized that, as the owner of the local gay bar, he was not welcome in this conservative military town.

"I encountered hostility from the very beginning," stated Leonard. "The bar was off-limits [for military personnel] even then." In addition to the verbal threats and harassment that he encountered during his first two years of business, Leonard's bar and house were robbed several times and his car was stolen and blown up.

In 1983, the US Navy Intelligence Service (NIS), with the help of the Onslow County Sheriff's Department, embarked on a gay witch

hunt that focused on military personnel at Friends Lounge. NIS agents rode in unmarked patrol cars with sheriff's deputies. Whenever they spotted anyone leaving the club who appeared to be military, the deputy would flash his blue light and pull the vehicle over. If the driver possessed any military identification, the deputy would turn the suspect over to the NIS agent for interrogation.



Danny Leonard

When the NIS initiated its anti-gay campaign, Leonard decided to retaliate. By holding several Marine look-alike contests at the club, he was able to shave the heads of many of the bar's civilian patrons, giving them the Marine high-and-tight haircut and causing confusion for the deputies and NIS agents who were using hairstyle as the sole criteria for determining who to target.

"I even got a high-and-tight myself and wore a camouflage Marine outfit," recalled Leonard. "I walked outside around the building just hoping that they would try and put their hands on me."

Though the NIS agents did not approach Leonard that evening, they did arrest two military patrons leaving the club. Leonard returned inside and recommended that all military per-

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