

MIAMI JUDGE RULES AGAINST FLORIDA GAY ADOPTION BAN

By Curt Anderson
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MIAMI (AP) - A judge on Tuesday ruled that a strict Florida law that blocks gay people from adopting children is unconstitutional, declaring there was no legal or scientific reason for sexual orientation alone to prohibit anyone from adopting.

Miami-Dade Circuit Judge Cindy Lederman said the 31-year-old law violates equal protection rights for the children and their prospective gay parents, rejecting the state's arguments that there is "a supposed dark cloud hovering over homes of homosexuals and their children."

She noted that gay people are allowed to be foster parents in Florida. "There is no rational basis to prohibit gay parents from adopting," she wrote in a 53-page ruling.

Florida is the only state with an outright ban on gay adoption. Arkansas voters last month approved a measure similar to a law in Utah that bans any unmarried straight or gay couples from adopting or fostering children. Mississippi bans gay couples, but not single gays, from adopting.

The ruling means that Martin Gill, 47, and his male partner can adopt two brothers, ages 4 and 8, whom he has cared for as foster children since December 2004.

"I've never seen myself as less than anybody else," Gill said. "We're very grateful. Today, I've cried the first tears of joy in my life."

He said the two boys have been practicing writing their new last names, and the older one said: "That's what's going to make us a family."

Attorneys for the American Civil Liberties Union, who represent Gill, said the case was the first in the nation in which numerous experts in child psychology, social work and other fields testified that there is no science to justify a gay adoption ban.

The state planned a swift appeal, likely setting up a battle that could reach the Florida Supreme Court. A judge in gay-friendly Key West also found the law unconstitutional in September, but that ruling has not been appealed and has limited legal reach.

The state presented experts who claimed there was a higher incidence of drug and alcohol abuse among gay couples, that they were more unstable than heterosexual unions and that the children of gay couples suffer a societal stigma.

Organizations such as the American Academy of Pediatrics, American Medical Association and American Psychiatric Association all support permitting same-sex couples to adopt.

Lederman rejected all the state's arguments soundly.

"It is clear that sexual orientation is not a predictor of a person's ability to parent," the judge wrote. "A child in need of love, safety and stability does not first consider the sexual orientation of his parent. The exclusion causes some children to be deprived of a permanent placement with a family that is best suited to their needs."

Florida Assistant Attorney General Valerie Martin said an appeal would be filed on behalf of the state Department of Children & Families. She declined additional comment.

Neil Skene, special counsel for DCF, said the judge did an "excellent job" on the case, but the department still must enforce state law. He noted that DCF placed the foster children with Gill.

"We think this is a wonderful foster parent," Skene said.

Reaction came quickly from advocates of gay, lesbian and transgender parents who have long considered Florida's law the most draconian in the nation. Jennifer Chrisler, executive director of the Boston-based Family Equality Council, said the decision is a "long-overdue recognition of the equal ability of lesbian, gay, bisexual and transgender people to raise happy, healthy families."

"The best interests of children should be decided by parents, families, professionals and judges, not opportunistic politicians and interest groups," Chrisler said.

John Stemberger, chairman of a successful drive earlier this month to pass a constitutional amendment banning gay marriage in Florida, called the ruling "classic judicial activism" and predicted it would be reversed on appeal.

"Everywhere in the law where children are affected, the standard must always be what is in the best interest of the child," said Stemberger, an attorney in Orlando. "What is stunning to me is that when it comes to dealing with gays, that standard goes out the window. Children do better with a mother and a father."

Associated Press Writer Bill Kaczor in Tallahassee contributed to this report.