

Understanding the Judicial Misconduct and Attempts to Overturn Florida's Ban on Homosexual Adoptions

By John Stemberger, Updated: March 12, 2010

What Exactly Did the Three South Florida Judges Do?

In November of 2008, Miami Circuit Court Judge Cindy Lederman ruled in a 54 page decision that (in her opinion) Florida's ban on homosexuals adopting children is somehow "unconstitutional". She came to this conclusion with no direct precedent or legal authority. In her view, Florida's 35 year old adoption law now all of a sudden "violates" the equal protection clause of the state constitution. Judge Lederman ruled that there was no evidence to prove that children would be "harmd" if adopted by homosexual parents. Since then, two other South Florida judges following her lead also entered orders finalizing homosexual adoptions in direct and open defiance of the rule of law found under Florida law.

Why Are These Judges Wrong?

The decision by Judge Lederman and her renegade colleagues are examples of classic, text-book, judicial activism. Instead of interpreting and enforcing the plain language of Florida's law, (which has been tested and upheld by federal courts) these judges have openly and brazenly defied the law. In doing do, they ignored the will of the people as expressed through the elected representatives and asserted their own personal opinions in these decisions. Instead of exercising their proper judicial role as restrained academic interpreters of existing law, they became illegitimate social change agents and usurped the law.

Why Not Allow Homosexuals to Adopt Children?

In short, it is not the best arrangement for the rearing of children. Even some openly gay researchers admit the obvious truth that children flourish best with moms and dads. The research is clear that optimal human socialization involves understanding the relationship between a man and a woman, a father and a mother and a husband and wife. When the state creates permanent family relationships they must use the same standard that is used in all of family law. That standard is-- what is in the "best interest" of children? But this is not the question that Judge Lederman asked. Instead she focused on the question of whether the homosexual foster parents would "harm the children". Arguably, foster homes and orphanages do not "harm children" but these are clearly not the best arrangements. Two moms, or two dads, are an objectively inferior choice when compared to the option of a married mom and dad. Even single parents have the potential, and often desire to marry a person of the opposite sex, but "gay families" are inherently fatherless or motherless. Finally, Florida's Attorney General presented research in court briefs showing that homosexuals as a population have disproportionately higher rates of social, mental and physical pathologies. Such problems include depression, suicide, drug abuse, venereal disease and shortened life expectancy.

What about all the Foster Children "Languishing" in the System?

This question reveals a major public misconception. While the need for qualified *foster parents* in Florida is great, the same is not true for parents *willing to adopt*. In fact, the demand for children to be adopted nationwide is enormous and far outweighs the number of children available for adoption. Tens of thousands of parents travel to foreign countries each year to adopt because of all the red tape that exists in adoption laws! Children of any sex, race or national origin can be adopted. I am told that there are even quiet waiting lists to adopt children with Down syndrome. The children that are very difficult to adopt are those with severe deformities, serious medical issues and older children with behavior problems.

What Does the Social Science Research Show About What is Best for Children?

While Judge Lederman reviewed some disputed and limited research on whether children raised by gays would be "harmd," she completely neglected to review the vast body of undisputed social science studies which clearly demonstrate "what is *best* for children" And there are not just a handful of studies or even hundreds --- but there are thousands of peer reviewed studies which appear in respected refereed journals over the past 40 years which clearly demonstrate that children flourish better in *every category* when raised by a married mother and father. The inverse is also true. When you remove either a father or a mother (especially a father) all the social problems are greater. The rates of suicide, depression, academic failure, sexually transmitted diseases, abortions, pre-mature sexual experiences and incarceration are all consistently higher when either a mother or a father is absent. Despite what opponents would have you believe there are no national widespread long term studies on homosexual parenting. There are only small studies of limited sampling and often done by bias researchers. So the real affects on children remains an unknown, untested social

experiment. What is best for kids should be based upon good research and sound public policy, not what an activist judge subjectively thinks is best.

Why Does Florida allow Homosexuals to Foster But Not Adopt Children?

Recently, editorial writers and pundits have called Florida's law "hypocritical" because it allows practicing homosexual couples to become foster parents but not adoptive parents. The truth is that the law is not hypocritical but *inconsistent*. Based upon the best interest standard the law probably ought to also prohibit gay foster care, but it does not. The two arrangements are different however in that foster care is intended to be a temporary arrangement and adoption is a permanent placement by the state. Until Florida's married couples start stepping forward in greater numbers to becoming foster parents then there is still a great need for more foster homes which a small number of gay-identified men and women fill.

Why Didn't DCF Put the Children In This Case Up For Adoption?

The two children who were brothers in the Gill case could have easily been adopted by a family with a mom and a dad. After their parents rights were terminated, the brothers *should have been* immediately placed up for adoption with a mother and a father. But the Department of Children and Families (DCF) and its contracted agencies did not do that. Instead, they allowed these homosexual foster parents to continue to retain custody of the children for many years. In fact, even though there is no written policy and DCF officials deny it, this happens on a regular basis. If there is a child in a homosexual foster home and the child's natural parents' rights are terminated, then the child is often inappropriately labeled "ineligible for adoption" and they continue on in the gay foster home until they become an adult. The law is also subverted by making it appear that a homosexual is merely "single" and only has a roommate. By doing this, DCF and its agencies do a slick "end run" around Florida law by turning what should have been a temporary foster care situation into a permanent, defacto, homosexual adoption. This is entirely improper and subverts the plain intent of the existing law by doing what is best for "gay-identified" adults instead of what is best for children. In some areas of Florida there are also aggressive efforts to recruit homosexuals to foster children that far outweighs the efforts to recruit foster parents in churches where there is really the type and numbers of families that really could solve the entire problem in a given region.

Will this case go to the Florida Supreme Court?

While the adoption in this case was allowed to be finalized, the law banning gay adoptions is still in effect and remains valid until the case is finally decided otherwise on appeal. If the District Court also engages in judicial activism and affirms the lower court's decision, then the case will be appealed by the state to the Florida Supreme Court. Governor Crist has placed four new judges on the court – two conservative and two liberal. As a result, the court has remained ideologically unbalanced with a 5-2 majority liberal position. Time will tell the outcome of this case but until then we will continue to make the case for what is best for children based on the research and not based upon the subjective views of a lawyer in black robes.

A Bright Hope for the Future

Recently Focus on the Family held a major city wide conference called "Wait No More" in Fort Lauderdale with a goal of addressing the need for foster care and adoption in South Florida the most densely populated area of Florida. The conference was co-sponsored with 4Kids, a leading Christian oriented foster and adoption agency. Approximately 1,000 people attended representing 526 families from the tri-county areas of Dade, Broward and Palm Beach. More than 170 different churches were represented. The conference results were remarkable:

- * Of the 526 families, 224 responded wanting to "initiate the process of adoption from foster care" (this represented 43% of the families in attendance).
- * 119 families expressed an interest in helping a Haitian child (Of those, 96 were families who also initiated the process of adoption from foster care, so only 23 families expressed interest in just helping Haitian children)
- * 63 families are being contacted to take classes with the goal of adopting from foster care.
- * Prospective parents were told that there were minimal children available ages 0-5 and in spite of this several still wanted to receive training for adoption from foster care.

The bottom line is that the challenges in the foster care system can be solved. But allowing homosexuals to adopt is not the answer. The solution is found in appealing to families in Florida's churches and communities.

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