

OK on Religious Bias Erodes Unruh Act

By Karen Ocamb

LOS ANGELES — At a December 11 news conference at ACLU headquarters here a broad coalition of civil, religious, Gay, and women's rights and fair housing organizations blasted a recent precedent-setting and controversial State Court of Appeals decision allowing landlords to discriminate against renters whose lifestyles go against the landlords' religious beliefs.

Various speakers expressed deep concern that the ruling might undermine the state Unruh Civil Rights Act which prohibits arbitrary discrimination.

Family Diversity Project attorney Thomas F. Coleman, representing Verna Terry

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whose case prompted the ruling, said he has petitioned for a rehearing of the court of appeals decision. He also announced that San Francisco District Attorney Arlo Smith simultaneously filed papers asking the court to reconsider its decision. So far neither Attorney General Dan Lundgren nor Los Angeles District Attorney Ira Reiner have petitioned for a rehearing.

The case stemmed from an incident in 1987 when devout Catholics John and Agnes Donahue, now in their 70s, refused to rent an apartment in their five-bedroom building to an unmarried couple, claiming that they would be facilitating "out of wedlock fornication" which they believe is a "mortal sin." Vera Terry and Robert Wilder filed a complaint with the Fair Employment and Housing Commission charging discrimination and violation of their right to privacy. In 1988 they were awarded \$7,480.

But the Donahues appealed that decision which resulted in the 2-1 ruling Nov. 27 by the appeals court giving the Donahues a religious exemption because of their "sincerely held religious belief that fornication and its facilitation are sins."

Judges Roger W. Boren and Paul Turner wrote that the state's "interest in protecting unmarried cohabitating couples from discrimination is not such a paramount and compelling state interest as to outweigh the Donahues' legitimate assertion of their right

to free exercise of religion under the California state Constitution ... (it) simply does not rank very high."

In a strongly-worded dissenting opinion, Judge Margaret M. Grignon wrote "It is inappropriate for courts to determine on a case-by-case basis that the state has a compelling interest to prevent certain types of employment and housing discrimination but not others (The Donahues) are engaged in secular, commercial conduct performed for profit The statute does not require the Donahues to aid and abet 'sinners,' it merely requires them to act in a non-discriminatory manner towards all prospective tenants."

Coleman, ACLU staff attorney Jon Davidson, and others noted that the decision could particularly effect Lesbians and Gays who have no legal way to get married and therefore would no longer be protected under the state housing laws prohibiting discrimination based on "marital status."

"Privacy goes out the window," Coleman said.

The ruling, Coleman added, applies to all single people, including roommates who a landlord might presume are being "sinful," whatever the landlord's religious definition of sinful might be. Even the unmarried elderly are at risk of not finding housing or of being evicted.

"When you add up the numbers, we are talking about the majority of adults in California who will lose their privacy if this decision stands," Coleman said.

"The religious exemption ruling by the Court of Appeal will wreak havoc and become an exception which will swallow the State Unruh Act," said Stephanie Knapik, executive director of the Westside Fair Housing Council.

"The court essentially said in this case, that discrimination is okay if you really believe in what you're discriminating against," said Ramona Ripston, executive director of the American Civil Liberties Union (ACLU) of Southern California, announcing that the ACLU has filed a friend of the court brief supporting Coleman. "They said that business owners can discriminate against individuals based on their marital status if the marital status offends the business owner's religious beliefs Religion cannot be used to validate discrimination."

"The ramifications of this are enormous," said Davidson. "For instance it might be against a landlord's religious beliefs to drink a glass of wine, while it might be an integral part of a renter's religion. It is a personal decision who we live with. Pursuing religious beliefs is not an excuse to disobey the law."

Verna Terry also attended the news conference.

"I felt incredibly violated," she said about the Donahue's rejection of her rental application.

Update

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