

Out in the Mountains

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The New American Family

Lesbian Second Parent Adoption Approved in Vermont

(Note: The names of the parties to this adoption have been changed.)

On December 20, 1991, in Addison County Probate Court, legal history was made in Vermont when Judge Chester S. Ketcham approved the first second parent gay/lesbian adoption in the state. The state did not contest the adoption, which became final one month later. There are only a handful of these adoptions in the country, putting Vermont in the forefront on gay/lesbian family law issues. All cases to date involve lesbians. What makes the Vermont case especially significant from a legal standpoint is that Judge Ketcham wrote an opinion which can be used as a legal precedent in future adoptions. This case demonstrated once again the essential fairness of the Vermont judiciary, which decided a case on its merits, rather than on the sexual orientation of the parties involved.

The circumstances of the case are these. A lesbian couple who had been together for more than ten years decided to adopt a child. The adoption agency they contacted was fully aware of the nature of Beth and Laura's relationship when it placed Hannah, who was then about a month old, with them. Since single-parent G/L adoptions are relatively common and second parent adoptions practically unheard of, they were advised to adopt Hannah one at a time. Accordingly, Beth petitioned to adopt the child first.

A home study was undertaken which found Beth to be an excellent potential mother and recommended approval of the adoption. As before, all parties knew about Beth and Laura's relationship. Beth's adoption of Hannah was approved in November 1990.

A month later Beth and Laura went to see Middlebury attorney Susan Murray about Laura's adoption of Hannah. Murray has developed considerable expertise in gay/lesbian family law in Vermont, partly because, as she says, "there aren't a whole lot of attorneys out there who are thinking about the kinds of issues that lesbians and gay men have to think about from a legal standpoint. I've [also] thought about a lot of these issues from my own personal life." Murray's best known G/L family law case is the Collin Hamilton custody case (see the December 1991 issue of *OITM*).

Normally, an adoption takes three to four months to complete. This one took about ten months because of the extensive legal research Susan Murray had to undertake. There is no central repository of information on G/L second parent adoption cases, and finding them took a lot of legwork. The most useful was a Washington, D.C. case from August 1991, because it was the first time a legal opinion was written when the adoption was approved.

Then there was a second home study, this one looking specifically at Laura. It was ordered by the judge and carried out by Vermont Children's Aid, under its contract with the Vermont Department of Social and Rehabilitative Services (SRS). In her report, Ann Clark, the Director of Children's Aid, wrote that she wholeheartedly endorsed the adoption if the court found that Vermont law allowed it.

Throughout the process SRS's position was unclear. It sent letters to Vermont Children's Aid and to the Addison

Continued on page 18

Victory in New York; Rights for Lesbian and Gay Parents

A judge in Manhattan approved the adoption of a 6 year-old boy by the lesbian partner of his biological mother, in the latest in a series of such cases in the past year. The adoption January 30, is the first in New York State. Other cases in Washington, D.C. last fall and here in Vermont this December, all add to the growing list of jurisdictions in which second parent adoptions have been approved.

In a ruling similar to the Vermont decision, Judge Eve Preminger said that, "No provision of New York law requires that the adoptive parent be of any particular gender." "The fact that the petitioners here maintain an open lesbian relationship is not a reason to deny adoption." Addressing the issue of whether a child can be properly raised in a lesbian or gay household, Judge Preminger added: "concern that a child would be disadvantaged by growing up in a single-sex household is not borne out by the professional literature examined by this court."

The court said there is a significant emotional benefit to the child from adoption. "The adoption brings him the additional security conferred by formal recognition in a organized society. As he matures, his connection with two involved, loving parents will not be a relationship seen outside the law."

Lesbian and gay rights advocates hailed the decision, saying the court had extended the legal status of a family to the

Continued on page 3