

Back to the drawing board

A Georgia court upholds Atlanta's partnership registry and right to ban discrimination against gay men and lesbians, but strikes down benefits

by Richard Shumate

By a 4-to-3 vote, the Georgia Supreme Court struck down an Atlanta ordinance that granted insurance benefits to the domestic partners of city employees.

But the court, in deciding a wide-ranging assault on the city's sexual minority rights protections brought last year by conservative activists, upheld the city's ordinance allowing unmarried people—gay or straight—to register as domestic partners. It also upheld an ordinance forbidding discrimination based on sexual orientation by city government, on city property, or by operators of bars and taxicabs, which are regulated by the city.

And in a decision released on March 14, six of the court's seven members went out of their way to reject the notion that measures outlawing discrimination amount to giving gay men and lesbians "special rights."

Despite the rejection of partnership benefits, rights activists said that, overall, the court's action was more positive than negative.

"It's the first time in this state that we have a validation of our relationships," says Larry Pellegrini,

the lobbyist for GAPAC, a gay and lesbian political group, in reference to the partnership registry.

Some of the language in the majority's decision also indicated that those justices would not look favorably upon measures similar to Colorado's Amendment 2. That was good news for the state's gay men and lesbians because, although Georgia doesn't currently allow such initiatives, a bill to open up the ballot to public initiative is pending in the legislature.

The battle over partnership benefits will now shift back to the Atlanta City Council. Armed with the Supreme Court's ruling, supporters of the measure plan to rewrite the ordinance so that it will survive future court attacks.

The court's ruling against partnership benefits was based on technicalities in Georgia law. The majority held that the city council exceeded its authority by improperly rewriting the definition of what constitutes a legal dependent—something only the legislature can do. But supporters believe the council can rewrite the law to overcome the court's concern.

"What they told us was that we wrote it wrong, not that we couldn't have [partnership benefits]," Pellegrini said.


City Councilwoman Mary Davis, who sponsored the partnership ordinances when they were narrowly approved in August 1993, vowed to reintroduce the measures. Mayor Bill Campbell, who voted for them when he was a member of the council two years ago, also expressed support.

However, whether partnership benefits can get through the council again is an open question because there was substantial turnover on the council during city elections in November 1993. On the plus side for partnership supporters, however, is the fact that the two strongest opponents of the ordinances the last time around are no longer on the council.

The legal challenge to the city's three lesbian and gay rights measures was brought by the Southeastern Legal Foundation, a conservative public-interest law firm, on behalf of a group of plaintiffs led by State Rep. Billy McKinney, a liberal Democrat who has long been a strident opponent of measures protecting lesbians and gay men. Ironically, he is the father of U.S. Rep. Cynthia McKinney, a Georgia Democrat who is one of the strongest supporters of sexual minority rights measures in Congress.

McKinney claimed victory after the court's ruling, calling domestic partnership benefits ordinances "repulsive."

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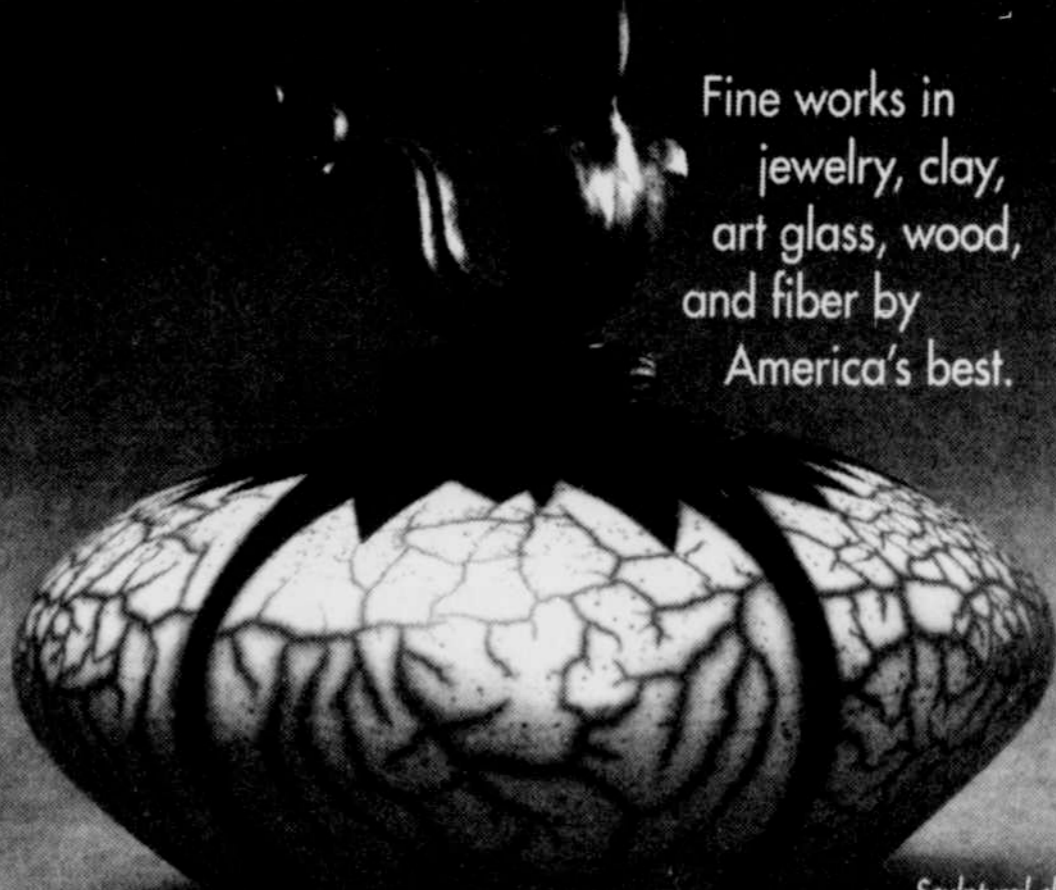
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