

A Portland boy's future is in limbo as a result of a Jan. 28 court decision allowing Florida to remain the only state with a blanket prohibition on gay adoption.

A three-judge panel of the 11th Circuit U.S. Court of Appeals unanimously sided with the state's argument that it has a right to legislate its "moral disapproval of homosexuality" and its belief that children need a married parent for healthy development. However, Florida policy allows gay people to care for foster children and single parents to adopt.

"We were hoping that the courts would perform one of their most important functions, namely protecting people from the prejudices of legislators that were written into law a quarter of a century ago," said Howard Simon, American Civil Liberties Union of Florida executive director. "If single people can adopt in Florida, if gay people can be foster parents and legal guardians and if there are thousands of children languishing in foster care, there can be no justification for Florida's ban...other than impermissible prejudice and hostility toward gay people."

The most restrictive adoption law in the country, the ban passed in 1977 at the height of Anita Bryant's infamous anti-gay campaign. The ACLU brought the suit on behalf of four gay men who would like to adopt in Florida but are prevented from doing so because of the policy.

One of the plaintiffs, Steve Lofton, now lives in Portland with his partner, Roger Croteau, and their five children, all born with HIV, including three foster kids from Florida. Although the Florida children—two 16-year-olds and a 12-year-old—have never known any other family, they cannot be adopted by the couple because of the ban.

Because the youngest Florida child, Bert, is younger than 14 and no longer tests HIV-positive, the state now deems him "adoptable" and has begun the process of finding him another family. Even though he no longer lives in Florida, he still is subject to its foster care rules.

"We are living in dangerous times," said lesbian mother and former talk show host Rosie O'Donnell, who came out in a 2002 *PrimeTime Live* interview to shed light on the Lofton-Croteau case. "The struggle for civil rights continues. It is my hope this case will be heard by the Supreme Court, where this absurd discriminatory decision will be reversed. What a sad day for all Americans."

Florida Gov. Jeb Bush told *The Associated Press* that he was "pleased" about the decision. "It is in the best interest of adoptive children, many of whom come from troubled and unstable backgrounds, to be placed in a home anchored both by a father and a mother," he said.

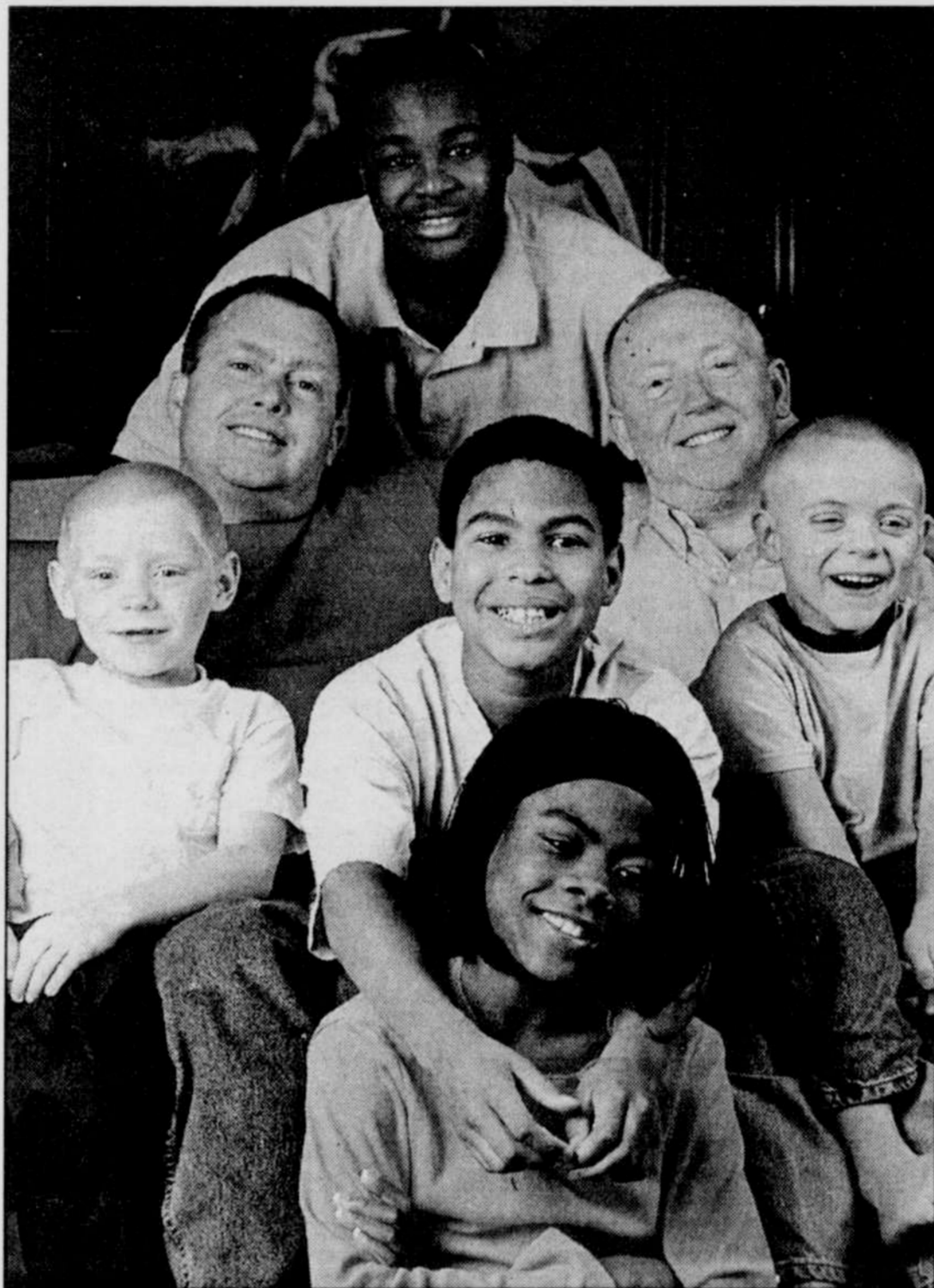
The ACLU has not yet decided how to proceed. It could ask the full appeals court to consider the issue.

"We intend to do everything we can to make sure that none of the children involved in this case are

A CRUSHING DEFEAT

Portland gay couple lose challenge to Florida adoption ban

by Jim Radosta



Steve Lofton (left) and Roger Croteau sued Florida for the right to adopt foster children Bert (center), Tracy (bottom) and Frank (top). Wayne (far left) and Ernie (far right) were placed with the family by the state of Oregon.

taken from their families," said Matt Coles, ACLU Lesbian and Gay Rights Project director. "We are exploring the legal options, and when we have decided what course of action to pursue we will release more details."

Edward Schiappa, a University of Minnesota law professor who follows gay issues, believes the case is destined for U.S. Supreme Court review in 2005. He predicts the state will have a hard time defending the policy because of its inconsistency in allowing gay fos-

ter parents while banning gay adoptive parents.

Meanwhile, the state's queer rights organization is calling on the Legislature to repeal the state's anti-gay adoption law. Equality Florida and community groups across the state held meetings and rallies Jan. 29 to organize a response to the legal setback.

"The court's ruling is not only bad news for gay Floridians, it is bad news for children who will be denied good homes," executive director Nadine Smith said. "While the legal fight continues to unfold, we believe it is past time for the Legislature to repeal this state-sanctioned bigotry."

According to the state Department of Family and Children, more than 3,400 children in Florida foster care are waiting to be placed in stable homes. More than 500,000 kids are in the system nationwide.

In addition to Florida, two other states have anti-gay adoption policies. Mississippi prohibits adoption by same-sex couples, while Utah prohibits gay or unmarried heterosexual couples from adopting.

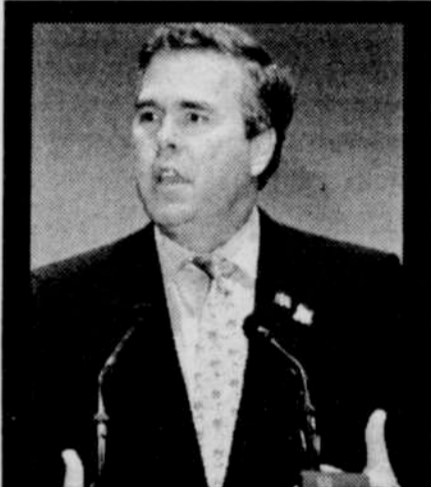
Every mainstream child advocacy and mental health organization is opposed to excluding gay people from adoption. The Child Welfare League of America, American Academy of Pediatrics, American Psychiatric Association, American Psychological Association and National Association of Social Workers and numerous others have issued statements affirming the ability of gay men and lesbians to parent and adopt.

"Anyone who truly cares about children knows that subjecting them to a series of temporary homes and no real sense of family cannot possibly be in their best interest, especially when there are loving and capable same-sex parents ready to open their homes and hearts to them," said Cheryl Jacques, Human Rights Campaign president. "This ruling places a higher premium on antiquated and discriminatory assumptions about gay and lesbian people than on the best interests of the state's children and families." □



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