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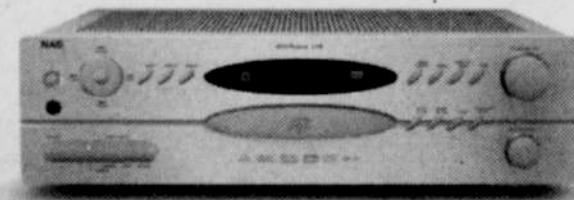
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Court Upholds Marriage Ban

Basic Rights Oregon prepares for appeal

by Jaymee R. Cuti

The Marion County Circuit Court decision to uphold Measure 36, the ban on same-sex marriage, will be appealed, assure leaders from Basic Rights Oregon.

The court released its decision to uphold the voter-approved measure Nov. 4, citing precedent set by the Oregon Supreme Court and Appellate Court.

"Judge [Joseph] Guimond's ability to rule in our favor was sharply restricted," said BRO attorney Mark Johnson, explaining that two of the three-part arguments presented were bound by previous rulings.

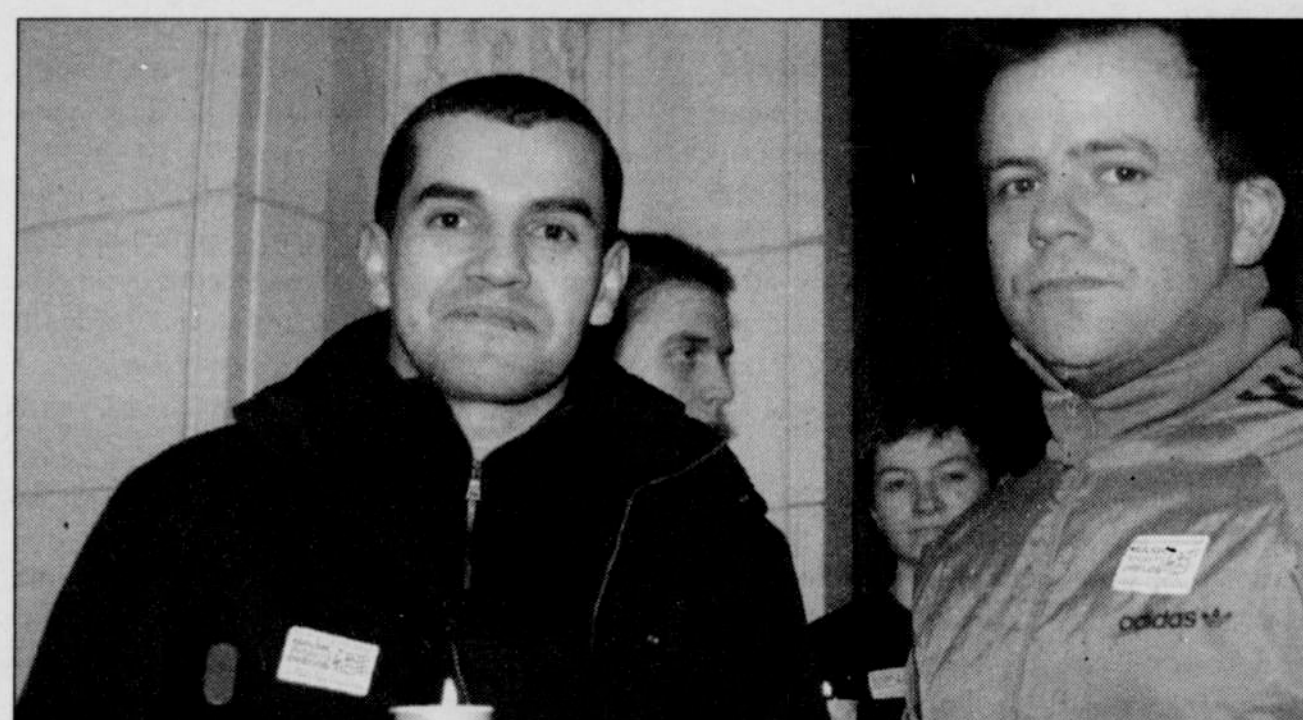
He was hopeful, however, about the tone of the judge's ruling. "We're very optimistic about the appeal, partly because of the judge's ruling. The things that he

victory if we could get it."

According to Johnson, and based on the judge's ruling, his strongest argument is that Measure 36 makes several changes that should have been voted on separately.

BRO staff spoke out passionately about the real-life implications of the ruling.

"We should not lose sight of the fact that every day that Measure 36 is in effect, real people—real families—suffer," said Roey Thorpe, BRO executive director. "Gay and lesbian people are not second-class citizens and should not be treated as such, and the children of gay and lesbian parents deserve the full protections of having married parents."



Plaintiffs Juan Martinez (left) and partner Byron Beck vow to fight on after their defeat in court Nov. 4.

said and ways he went about analyzing the case were very helpful in putting together the case for the Court of Appeals."

Filed on behalf of BRO, Martinez vs. Kulongoski argued that Measure 36 was invalid on both technical and civil rights-based grounds.

Technically speaking, it took issue with the procedure for placing the measure on the ballot. The argument stated that Measure 36 inserts a policy statement into the Oregon Constitution, forces that policy on local and county governments and interferes with the ability of courts to interpret the constitution.

BRO also argued that while Measure 36 contains only one sentence, it creates multiple changes that should have been proposed as separate amendments. From an ideological perspective, the lawsuit argued that changes to the constitution resulting from Measure 36 are so sweeping, they revise, not amend, the document, in essence creating two classes of Oregonians, which violates the spirit of the document.

"The implication of winning on that particular argument would be enormous for any minority group being challenged by an initiative," said Johnson. "You can't use the initiative process to change the equality provisions of the constitution. If you want to use the constitution to say that some people are more equal than others, you have to convince two-thirds of the legislators of each house. That would be a tremendous

BRO spokeswoman Rebekah Kassell voiced frustration about the ruling and continuing fight to overturn the hurtful measure. "It's appalling to suggest that GLBT people are responsible if discrimination continues because they haven't made a strong enough case for it to end," she said.

BRO vows this fight is far from over, planning to take the case to the Oregon Court of Appeals and ultimately the Oregon Supreme Court.

Kassell doesn't anticipate a resolution before 2008. She estimates six months until the case is brought before the Oregon Court of Appeals and approximately two years before a ruling is made.

"In the short term, there's other work we can do to make incremental gains and to build power and build a movement that can create a lasting win," said Kassell.

Meanwhile, BRO will focus energies on launching a three-year public education campaign about workplace and housing discrimination and bias against couples and families. It will also work to elect candidates and defend the seats of legislators who advocate for sexual minority issues.

"To succeed, it's going to take everyone," Kassell said. "We're only as strong as a movement in terms of the number of people who are willing to commit their time and energy and money and voice their personal story." 10