

LEGAL DOCKET OF OHIO ACLU

by Elinor Alger, Legal Director

CHILDREN'S RIGHTS/ADOPTION

A Licking County trial court approved an adoption of a 7 year old boy by a homosexual psychotherapist who had been counselling the boy while he was a ward of Licking County Children's Services. All testimony at the hearing recommended the adoption. The boy has leukemia and has been in five foster homes. An appeals court overturned the adoption, ruling that the homosexual lifestyle was per se not acceptable for an adoption. ACLU has joined as amicus in an appeal to the Ohio Supreme Court, arguing that the appeals court ignored the standard criteria for evaluating adoption petitions and should have considered only the best interests of this child and should not have relied on stereotypes of conduct attributed to a particular lifestyle. (In re Charles B).

STRIP SEARCHES/ RIGHTS OF MENTALLY RETARDED

Employees of a county sheltered workshop strip-searched approximately 30 mentally retarded workshop clients in an unsuccessful effort to recover stolen money. No workshop staff were searched. ACLU filed a class action lawsuit in U.S. District Court, Columbus, challenging the unlawful search. (Hart v. Gallia County Commissioners).

WOMEN'S RIGHTS/FETAL ABUSE

A Franklin County juvenile judge ordered an adult pregnant woman alleged to abuse drugs to undergo medical testing, and obtained her medical records, on the basis of his alleged jurisdiction over what he ruled was her viable fetus. The Franklin County appeals court ruled that the judge was without jurisdiction over an adult, and that Ohio child protection statutes did not apply to unborn children. ACLU was amicus on appeal, arguing that a woman's right to privacy precluded a court from regulating her conduct during pregnancy. (Cox v. Franklin County Court of Common Pleas, Juvenile Division).

ACLU is participating in a similar case pending in Lucas County Common Pleas Court where a woman was indicted for drug use during pregnancy. (State v. Grey).

DUE PROCESS

A Lucas County Common Pleas Court issued a Temporary Restraining Order without notice and without hearing that resulted in police battering down the door of an alleged crackhouse and summarily evicting the residents, including a 70 year old grandmother. ACLU has challenged the TRO as an infringement on the alleged defendant's right to due process before being evicted. (State v. Sidiris).

SEPARATION OF CHURCH AND STATE

ACLU has challenged as a violation of the First Amendment the erection of a nativity scene on the lawn of the Delaware County Courthouse this past December. The U.S. District Court in Columbus refused to issue a preliminary injunction against the Commissioners which would have required them to remove the creche, and continued the case until after the U.S. Supreme Court rules in a similar case in Pittsburgh. (ACLU of Central Ohio v. Delaware County Commissioners).

POLITICAL RIGHTS

ACLU has filed as amicus in the 6th Circuit Court of Appeals urging affirmance of a U.S. District Court's ruling holding unconstitutional a provision of Ohio law empowering the Ohio Elections Commission to investigate alleged false statements made in the context of election campaigns and, if probable cause is found, to issue cease and desist orders, assess fines or refer for prosecution. A Trumbull County candidate challenged sections of the law after losing an election in which the Elections Commission made public its finding of probable cause the day before the election. (Pestak v. Ohio Elections Commission).

RIGHT TO PRIVACY/MILITARY DISCHARGE

Ohio ACLU is representing in administrative appeal proceedings a transsexual male Air Force Major at Wright-Patterson Air Force Base with an outstanding job performance record who was discharged because his cross-dressing during off-duty time was held to constitute substandard performance. (U.S. Air Force Administrative Discharge Board v. deGroat).