

# ACLU Fights for LGBT Rights

by Bradley Osborn July 2005



There are around 18,000 children in the custody of the Children's Division of the Missouri Department of Social Services (DSS) throughout the year (11,000 at any point in time)<sup>†</sup>. Given this large number of children in need of foster care, you would think that qualified foster parents would be welcomed to apply for a foster care license. One extraordinarily qualified couple, L. Johnston and D. Roginski, did just that.

Johnston has a bachelor's degree in Human Development and Family from the University of Kansas, with a special emphasis on Child Development, and works at KCMC Child Development Corp. as a curricula consultant for child care homes. Previously, Johnston has worked with The Children's Place and Head Start.

D. Roginski holds a master's degree in Counseling from St Mary's College, a master's degree in Divinity from Luther Seminary, and a bachelor's degree in Psychology from the University of Minnesota. Roginski currently works as a therapist and chaplain at Marillac, a treatment center for children and adolescents with emotional and behavioral disorders, and has had experience with foster care children and victims of domestic violence.

Johnston and Roginski are also very involved in their church, and this involvement would supply an additional support mechanism for them and any foster children in their home.

The couple passed a home site visit by DSS, converted a small room in their home into a nursery, and had attended seven of the nine required training sessions for foster parent licensure. After this point, the couple was told that their application for a foster parent license was being denied because the two were "not of reputable character."

The problem is that L. Johnston's and D. Roginski's first names are Lisa and Dawn. They are both women; they're lesbians. And according to an unwritten DSS rule, openly gay or lesbian persons may not serve as foster parents in the state of Missouri. The decision against Johnston and Roginski was based on this ethereal rule and on Missouri's unconstitutional sodomy law. You see, even though *Lawrence v. Texas* (2003) struck down the nearly identical Texas law, a court challenge to the Missouri law has not yet come about, nor has the General Assembly repealed the statute to conform to current case law.

Johnston and Roginski began the foster care license process in 2003, administrative proceedings followed the initial denial in 2004, and in March 2005, the American Civil Liberties Union (ACLU) filed suit on behalf of Ms. Johnston in the Circuit Court of Kansas City, seeking an overturn of the unwritten rule barring open gays and lesbians from serving as foster parents in Missouri. Lisa Brunner represents Ms. Johnston, and both the national ACLU and the regional Kansas and Western Missouri office are involved in the case.



The ACLU is reviled by many who oppose civil liberties. Pat Robertson's bunch even came up with a counter organization called the ACLJ, the American Center for Law and Justice. The ACLU supports the First amendment separation of church and state, unlike Robertson's theocratic ACLJ.

The ACLU was formed in 1920 as the National Civil Liberties Bureau (NCLB). The ACLU has been involved in many famous and important cases over the last nine decades: the *Scopes Monkey Trial*, *Brown v. Board of Education*, *Roe v. Wade*, and cases stemming from the curtailment of civil rights due to the PATRIOT Act.

Funding for the ACLU comes through grants and donations from organizations and individuals that support protecting the Bill of Rights from erosion. It is composed of two units, the lobbying arm known as the American Civil Liberties Union, and a litigating/communications arm known as the ACLU Foundation.

ACLU headquarters is located in New York City, but the group works through affiliate offices located around the country. These affiliates operate with a great deal of autonomy, and often bring cases independent of the national organization, since most originate from local or regional issues or disputes. These affiliates also work outside of the courtroom to resolve matters of rights and liberties. For LGBT resources, go to [aclu.org/getequal](http://aclu.org/getequal).

Kansas City is served by the Kansas and Western Missouri affiliate of the ACLU. This office has an impressive history of defending LGBT citizens. In addition to *Johnston v. DSS*, the local branch is handling or has been involved with:

- *Mathewson v. Webb City School* - ACLU filed a lawsuit against Webb City (MO) R-VIII High School after student Brad Edward Mathewson was twice punished by Principal Stephen P. Gollhofer for wearing T-shirts bearing pro-gay messages. Gollhofer also banned Mathewson from wearing such shirts to school in the future.

- *Myers v. Thornsberry* – In support of her friend Brad Edward Mathewson, LaStaysha Myers also wore gay positive T-shirts to her Webb City school. Assistant Principal Jeff Thornsberry and Principal Gollhofer sent her home on two occasions, saying her T-shirts were disruptive, even though they allowed T-shirts with anti-gay and political messages to be worn by others. **23 June:** This case was resolved through negotiation. Webb City High School “informed Myers that it would no longer illegally censor her for wearing T-shirts bearing gay-supportive messages.”
- *Limon v. Kansas* - In February 2000, Mathew R. Limon and another male teen were both attending a school for developmentally disabled youth in Miami County, KS. Limon, then 17 years of age, performed consensual oral sex on the other student, who was almost 15 years old. Kansas has a statute called the *Romeo and Juliet Law* that gives much lighter sentences to straight teens who engage in sex with younger teens near their age. But since the sex act occurred between two males, Limon was sentenced to 17 years in prison. A heterosexual teen offender would have been made to serve no longer than 15 months for the same offense. Kansas Attorney General Phill Kline opposed any reduction in Limon’s sentence.



- *Doe v. Kansas* – A challenge to the dismissal of a high-level state transgender employee is successfully settled.

The ACLU of Kansas and Western Missouri is undergoing a leadership change. After twenty years as its Executive Director, Dick Kurtenbach is relinquishing his post. Kurtenbach has been involved in the Ku Klux Klan right-to-broadcast (on public-access TV) case, the return of the lesbian love story, *Annie on My Mind*, to Olathe, KS school library shelves, and the ruling honoring Nancy Cruzan’s right to die.

More cases and more supporting dollars for the organization have cropped up since the passage of the PATRIOT Act, and many gay and lesbian issues are now handled by the LGBT Task Force of the ACLU of Kansas and Western Missouri, which formed in 2003. For information about the local ACLU affiliate, go to [aclukswmo.org](http://aclukswmo.org).

† DSS Children’s Division Foster Care Fact Sheet