

Lesbians win Maine court OK

By Clarke Canfield, Associated Press | August 31, 2007

PORTLAND, Maine - The state's highest court yesterday overturned a lower court decision and opened the door for a lesbian couple to adopt two siblings who have been in their care for six years.

The Maine Supreme Judicial Court unanimously ruled that state law does not preclude Ann Courtney and Marilyn Kirby of Portland from adopting the 10-year-old girl and her 6-year-old brother.

Courtney and Kirby became the children's foster parents in 2001; last year, they filed petitions with the Cumberland County Probate Court to adopt.

Their petitions were rejected, but the high court concluded that state law does not prohibit two unmarried people from adopting a child together. As a result of the ruling, the matter will be sent back to probate court for further proceedings.

"We love these kids, and their well-being means everything to us," Courtney said. "Our daughter and son can now know that we are a family, and we'll always be a family."

Courtney and Kirby, who were not identified in court documents but made their names known following the decision, became foster parents after the children, then 4 years and 4 months old, were removed from the care of their biological parents.

The children have been diagnosed with post-traumatic stress disorder, reactive attachment disorder, and attention deficit and hyperactivity disorder.

Courtney, who is a lawyer, and Kirby, a counselor, later filed two petitions with the probate court seeking to jointly adopt the children. The court, however, denied the petitions, saying it lacked jurisdiction.

Courtney and Kirby then appealed to the Supreme Judicial Court. Attorney General Steven Rowe also filed a friend of the court brief arguing that prohibiting the adoption would be counter to Maine's Adoption Act.

The high court said that the probate court has jurisdiction and that state law allows for an unmarried couple, not just married couples or one unmarried person, to adopt. The overriding objective of the law is to protect the children's welfare, the justices ruled.

A joint adoption assures the children's' continued relationship with a surviving parent in case of a death and also enables them to be eligible for public and private benefits ranging from Social Security to health insurance and family leave, the justices wrote.

"Most importantly, a joint adoption affords the adopted children the love, nurturing, and support of not one, but two parents," Justice Jon Levy wrote in the ruling.

Mary Bonauto, an attorney with Gay & Lesbian Advocates & Defenders who represented the couple, said state adoption workers, the children's guardian, and a social worker who completed a home study all agreed that Courtney and Kirby are good parents. "This decision is in the best interest of the children, who have flourished under Ann and Marilyn's care," Bonauto said.

Adoptions by unmarried couples are permitted in a dozen other states, including Connecticut, Vermont, and Massachusetts, Bonauto's group said.■

© Copyright 2007 Globe Newspaper Company.