

IN THE SUPREME COURT OF THE STATE OF MISSOURI

JANICE ANN DELONG,	)	
Appellant	)	
	)	
vs.	)	
	)	
	)	Cause No. 80637
FREDRICK JOSEPH DELONG, III,	)	
Respondent,	)	
	)	
GUARDIAN AD LITEM,	)	
Respondent.	)	

BRIEF OF AMICUS CURIAE
AMERICAN PSYCHOLOGICAL ASSOCIATION

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INTEREST OF AMICUS CURIAE

The American Psychological Association ("APA"), a voluntary, nonprofit, scientific and professional organization founded in 1892, is the major association of psychologists in the United States, with more than 155,000 members and affiliates. Among the APA's major purposes is to increase and disseminate knowledge regarding human psychological behavior, and to foster the application of such psychological learning to important human situations and concerns. The issues at the heart of this case -- child development, the psychological well-being of children, human sexuality, and parenting -- have been the subject of significant research by psychologists, including many members of the APA. Furthermore, there is a body of empirical research specifically focused on parenting by lesbian mothers and the psychological and social development of their children. The APA submits this brief to bring this body of scientific knowledge to the Court's attention to help establish a context for this Court's review of a central question before it: whether a presumption that a lesbian parent is a less fit custodial parent than a heterosexual parent is a sound basis for determining the best interests of a child.^{1/}

ARGUMENT

The Missouri Court of Appeals decision below, that a mother's homosexual orientation cannot be presumed to be

^{1/} Research reviewed in this brief includes data from studies conducted using the scientific method. Such research typically is subject to critical review by outside experts, usually during the peer review process preceding publication in a scholarly journal.

detrimental to her children is supported by a considerable body of scientific research on children of lesbian parents and on parenting by lesbians. Scientific investigation has consistently found that children raised by lesbians or gay men are comparable to children raised by heterosexuals and that lesbians and gay men are as good parents as heterosexuals. These studies provide no support for any presumption that a lesbian or gay parent's sexual orientation is or will be harmful to the children. Thus, as the Court of Appeals below found, the best interests of the child of a lesbian or gay parent can be determined only through an individualized, fact-based assessment.

I. CHILDREN RAISED BY LESBIAN OR GAY PARENTS ARE AS HEALTHY PSYCHOLOGICALLY AND SOCIALLY AS CHILDREN RAISED BY HETEROSEXUAL PARENTS.

Research indicates that the sexual orientation of parents is not a predictive factor in the psychological and social development of their children. In the last two decades, a number of studies have been conducted on children of lesbian or gay parents. The consistent conclusion drawn from these studies is that the children demonstrate no appreciable differences in intellectual development,^{2/} psychological well-being or social adjustment from children raised by a heterosexual parent.^{3/} The

2/ Richard Green et al., Lesbian Mothers and Their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children, 15 Archives of Sexual Behav. 167, 174 (1986) (reporting that the intelligence quotient of children is not appreciably influenced by being raised by a lesbian mother as opposed to a heterosexual mother).

3/ See, e.g., Fiona Tasker & Susan Golombok, Growing Up in a Lesbian Family (1997) (a twenty-year longitudinal study of parents and children in the UK); David K. Flaks et al., Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents and Their Children, 31 Dev. Psychol. 105

research further shows that children of homosexual parents are no more likely themselves to be homosexual than children of heterosexual parents.^{4/}

Initially, research on children raised by homosexual parents focused on the large number of children who were born in the context of a heterosexual relationship and lived, after their parents divorced, with their lesbian mother (and in some cases her partner). In order to separate the effects of divorce from any possible effects of the parent's sexual orientation, the studies compared these children's development and well-being to the development and well-being of children of divorced parents being raised by a heterosexual parent (and in some cases the parent's spouse or partner). As more lesbians have become parents through donor insemination and adoption, a number of more recent studies have focused on children raised from birth by lesbian parents. Studies in both categories have reached the same conclusion: the sexual orientation of parents does not appreciably affect the psychological development, social adjustment, or sexual orientation of their children.^{5/}

(Jan. 1995) (studying parents and children in Pennsylvania); Green et al., supra (studying parents and children in both rural and urban areas in Connecticut, Florida, Illinois, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin).

4/ See, e.g., Frederick W. Bozett, Gay Fathers: A Review of the Literature, in Psychological Perspectives on Lesbian and Gay Male Experiences 442 (L. Garnets & D. Kimmel eds. 1993) [hereinafter Bozett, Gay Fathers]; Tasker & Golombok, supra, at 132.

5/ Fewer studies have been made of children of gay parents, but the results of those studies are consistent with those from studies of children of lesbian parents. See, e.g., Bozett, Gay Fathers, supra.

A. Psychological Development

In studies of single-parent households produced by divorce, children raised by lesbian mothers and by heterosexual mothers demonstrated largely identical levels of psychological adjustment.^{6/} Researchers found no statistically significant differences among such children in the prevalence of emotional or behavioral problems such as unsociableness, emotional difficulty, hyperactivity, or conduct problems.^{7/} Similarly, a study of children raised by divorced mothers in two-adult households concluded there was no difference in the self-concepts and levels of self-esteem of adolescents who lived with a lesbian mother and her same-sex partner and adolescents who lived with a mother and her opposite-sex partner; all fell within the normal range.^{8/}

Following such children into adulthood, researchers have found that the adult sons and daughters of lesbian mothers are no more likely to experience anxiety or depression, no more likely to have sought professional help for mental health problems, and no more likely to experience periods of unemployment than adult sons and daughters of heterosexual

6/ See, e.g., Martha Kirkpatrick et al., Lesbian Mothers and Their Children: A Comparative Study, 51 Am. J. Orthopsychiatry 545, 545-51 (1981); Susan Golombok et al., Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal, 24 J. Child Psychol. Psychiat. 551 (1983) [hereinafter Golombok et al., Appraisal].

7/ Golombok et al., Appraisal, supra, at 565, 570.

8/ Sharon L. Huggins, A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers, in Homosexuality and the Family 123, 132-35 (Frederick W. Bozett ed., 1989).

mothers.^{9/} Another study of adult daughters found no higher incidence of emotional problems among those who had been raised by a lesbian mother than among those raised by a heterosexual mother.^{10/} Thus, two scientists reviewing studies in this area commented:

The most striking feature of the research on lesbian mothers, gay fathers, and their children is the absence of pathological findings. The second most striking feature is how similar the groups of gay and lesbian parents and their children are to the heterosexual parents and their children that were included in the studies.^{11/}

Consistent with the results of research on children of divorced parents, the research on children raised from birth in lesbian households has also found psychological parity between these children and their peers from heterosexual households. In

2/ Tasker & Golombok, supra, at 135, 138, 143-44 (data gathered from same sample in 1976 and 1991). Responses from children raised by lesbian mothers and from children raised by heterosexual mothers to standardized measures of anxiety and depression were not only comparable to each other, but also closely comparable to U.S. norms. Id. at 135. The young adults from both groups who had experienced mental health problems were those whose mothers had reported poor mental health at the time of the 1976 study. Id. at 144, 147.

10/ Julie S. Gottman, Children of Gay and Lesbian Parents, in Homosexuality and Family Relations 177-96 (Frederick W. Bozett ed., 1990). This study in fact concluded that adult daughters of lesbians felt more secure in relationships and in the world in general than adult daughters raised by heterosexual mothers. Adult daughters raised by heterosexual mothers exhibited greater apathy and cautiousness than their peers raised by lesbians, who were freer of disillusionment and doubt and tended to have fewer complaints and worries than the women raised by heterosexual mothers. Id. at 189-90.

11/ G.D. Green & F.W. Bozett, Lesbian Mothers and Gay Fathers, in Homosexuality: Research Implications for Public Policy 197, 213 (J.C. Gonsiorek & J.D. Weinrich eds., 1991); see also Charlotte J. Patterson, Children of Lesbian and Gay Parents, 63 Child Dev. 1025 (1992) (comprehensively reviewing research on the subject and drawing same conclusion).

a recent study comparing children raised from birth in lesbian households with matched children raised in heterosexual households, the researchers found it "impossible to distinguish" between the groups of children on the basis of social competence or behavior problems.^{12/} The study concluded that "[p]resent data are consistent with the notion that parenting ability and sexual orientation are unrelated."^{13/}

Other studies have consistently yielded equivalent results. For example, one researcher, comparing the results of well-known studies of children from the general population with her own administration of the same standard tests to children conceived by lesbians through donor insemination or adopted and raised by lesbian mothers, found no difference in behavioral problems or social competence between the two groups.^{14/} Likewise, the children raised from birth in a lesbian household demonstrated the same levels of aggression, sociability, and desire to be the center of attention, as measured using a standard test for evaluating self-concept, as did the children raised by heterosexual mothers.^{15/} And although the children of

12/ Raymond W. Chan et al., Psychosocial Adjustment among Children Conceived Via Donor Insemination by Lesbian and Heterosexual Mothers, 69 Child Dev. 443 (April 1998).

13/ Id.

14/ Charlotte J. Patterson, Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts, and Sex-Role Identity, in Lesbian and Gay Psychology: Theory, Research and Clinical Applications 156, 165-67 (Beverly Greene & Gregory M. Herek eds., 1994) [hereinafter Patterson, Baby Boom]. Patterson's study included both children being raised by a single lesbian parent and children being raised by lesbian couples.

15/ Id. at 167.

lesbians reported somewhat greater stress than their counterparts raised by heterosexual mothers, they also reported greater feelings of contentedness, comfort with themselves, and joy.^{16/}

Another study, comparing children raised from birth by a lesbian couple with matched children raised by married heterosexual parents, found no differences in behavioral functioning, cognitive abilities, developmental progress, social skills, or school performance.^{17/} And a study comparing children raised from birth by a lesbian mother with children raised by a single heterosexual mother found no differences in the children's psychological well-being or behavior.^{18/}

Thus, three very recent reviews of the research to date have concluded from the evidence that children raised by lesbians are as healthy psychologically as children raised by a heterosexual parent or parents. One, for example, explained: "No differences between children of lesbian and single heterosexual mothers have been identified for emotional well-being, quality of friendships, or self-esteem."^{19/} Another summarized:

These children [raised by lesbian mothers or lesbian couples] have play and activity preferences that are similar to children raised in heterosexual households,

^{16/} Id. at 168, 169-70.

^{17/} Flaks et al., supra, at 16-20, 24.

^{18/} Susan Golombok et al., Children Raised in Fatherless Families From Infancy, 38 Child Psychol. and Psychiatry 783 (Oct. 1997) [hereinafter Golombok et al., Infancy] (the only statistically significant difference between the two groups was greater interaction between the lesbian mothers and their children than the heterosexual mothers and theirs).

^{19/} Id. at 784.

and do not show heightened anxiety, depression, or behavior problems.^{20/}

B. Social Adjustment

All the scientific research to date indicates that children raised by lesbian parents have the same types of social relationships and the same degree of ease or difficulty with such relationships as children or adults raised by heterosexual parents. With regard to relationships with other children, research indicates that prior to the onset of puberty, most children, regardless of the sexual orientation of their parents, have best friends of the same sex, and that children of lesbians do not otherwise differ appreciably from children of heterosexuals in choice of friends.^{21/} Other studies also show no significant differences between children raised by lesbian and heterosexual mothers with respect to maternal ratings of the children's leadership qualities and popularity, the children's self-ratings of popularity, and overall social adjustment.^{22/}

Studies also indicate that children raised in lesbian households are not deprived of male role models. Indeed, in one

20/ Jeffrey J. Haugaard et al., Lesbian-Headed Households, 1 Adoption Q. 93, 100-01 (1998) (noting also that these children "do not show indications of abnormal development"). See also Gail S. Goodman et al., Developmental Psychology and Law: Divorce, Child Maltreatment, Foster Care, and Adoption, in Handbook of Child Psychology 775, 846 (William Damon et al. eds., 1998) ("there is no evidence that children raised by gay or lesbian parents develop abnormally").

21/ Green et al., supra, at 178; Golombok et al., Appraisal, supra, at 564; Charlotte J. Patterson, Children of Lesbian and Gay Parents, in 19 Advances in Clinical Child Psychology 235, 257. (T.H. Ollendick & R.J. Prinz eds., 1997) [hereinafter Patterson, Children (1997)].

22/ Green et al., supra, at 178; Golombok et al., Appraisal, supra, at 565-67.

study of children of divorced couples being raised by their mothers, those living with lesbian mothers actually visited with their fathers more often than those living with heterosexual mothers.^{23/} Among the children in another study, more than 90% of those living with their divorced lesbian mothers had contact with their fathers.^{24/} And in a third study, lesbian mothers as a group demonstrated more concern that their children have positive relationships with men than did heterosexual mothers as a group. This study reported that the children of lesbians, in particular children being raised by their mother and her same-sex partner, had more men in their lives as family friends than did children being raised by divorced heterosexual mothers. And although the rate of contact with their fathers was the same for both groups in that study, the children being raised by lesbians were more likely to include male relatives in their activities.^{25/}

C. Sexual Identity

Concern about lesbians and gays raising children has sometimes focused on whether the sexual orientation of the parents affects the development of their children's sexual identity. Research into three separate aspects of sexual identity -- gender identity, gender role, and sexual orientation -- does not evidence any differences between children of lesbian or gay parents and children of heterosexual parents.

^{23/} Golombok et al., Appraisal, supra, at 557, 561.

^{24/} J. Hare & L. Richards, Children Raised by Lesbian Couples: Does the Context of Birth Affect Father and Partner Involvement?, 42 Fam. Relations 249-255 (1993).

^{25/} Kirkpatrick et al., supra, at 549.

1. Gender identity and gender role behavior

Gender identity concerns a person's self-identification as male or female.^{26/} Studies using a variety of methods to test and compare the gender identity of children raised by a lesbian mother with the gender identity of children raised by a heterosexual mother have found no significant difference between the two groups.^{27/} Most children in both groups identify with their actual biological sex,^{28/} and most also indicate satisfaction with their gender.^{29/}

Likewise, research indicates that children's gender role behavior, or tendency to engage in activities commonly regarded by society as "masculine" or "feminine", is also not particularly influenced by the sexual orientation of their parents. Comparisons of children raised by lesbian mothers and those raised by heterosexual mothers did not reveal any appreciable differences in gender role behavior.^{30/} Most girls

26/ Patterson, Children (1997), supra, at 243.

27/ See, e.g., Golombok et al., Appraisal, supra, at 568; Gottman, supra, at 189; Kirkpatrick et al., supra, at 551; Richard Green, The Best Interests of the Child With A Lesbian Mother, 10 Bull. AAPL 7, 14 (1982) [hereinafter Green, Best Interests]; Green et al., supra; see also Richard Green, Sexual Identity of 37 Children Raised by Homosexual or Transsexual Parents, 135 Am. J. Psychiatry 692 (1978) [hereinafter Green, Sexual Identity] (studying sexual identities of children raised by both gay men and lesbians).

28/ See, e.g., Kirkpatrick et al., supra, at 551; Green et al., supra, at 174, 179-80; Green, Sexual Identity, supra, at 693, 696-697.

29/ See, e.g., Green et al., supra, at 176.

30/ Patterson, Baby Boom, supra, at 168-69; Golombok et al., Appraisal, supra, at 568; Gottman, supra, at 189; Kirkpatrick et al., supra, at 551; Beverly Hoeffler, Children's Acquisition of Sex-Role Behavior in Lesbian Mother Families, 51 Am. J.

living with lesbian mothers demonstrated "feminine" behavior and most boys living with lesbian mothers demonstrated "masculine" behavior.^{31/}

2. Sexual orientation

Research in this area also indicates that there is no basis in fact for any preconception that children raised by gay or lesbian parents will be more likely themselves to be homosexual than children raised by heterosexuals.^{32/} One study, for example, comparing children raised by heterosexual mothers and children raised by lesbian mothers found that children of lesbian mothers "are no more likely than their peers from heterosexual mother families to identify themselves as gay or lesbian or to be attracted to someone of the same gender."^{33/} It found that the adult sons and daughters of lesbian and heterosexual mothers did not differ appreciably with respect to sexual identity, and that the percentage of sons or daughters of lesbian mothers that identified themselves as gay or lesbian also appeared consistent with general population norms.^{34/} Another

Orthopsychiatry 536, 542 (1981); Green, Best Interests, supra, at 14.

31/ See, e.g., Patterson, Baby Boom, supra, at 168-69; Golombok et al., Appraisal, supra, at 562; Gottman, supra, at 181; Hoeffler, supra, at 542.

32/ See Gregory M. Herek, Myths About Sexual Orientation: A Lawyer's Guide to Social Science Research, 1 Law & Sexuality 133, 157-61 (1991) (summarizing research); Bozett, Gay Fathers, supra, at 442.

33/ Tasker & Golombok, supra, at 132.

34/ Id. at 112-114 (data from subjects in their mid-twenties). The sample for the longitudinal study was chosen before the children's sexual orientation was established. Id. at 6.

study of adult daughters of lesbian and heterosexual mothers showed "no significant difference in the percentage of lesbian children between the two groups."^{35/}

Other studies of children raised by a lesbian parent or couple have likewise found that these children's expressed sexual orientation does not differ appreciably from that of children raised by a heterosexual parent or parents.^{36/} A study of sons of gay fathers found that more than 90% of those whose sexual orientation could be rated were heterosexual. Interestingly, the sons' sexual orientations were unrelated to the amount of time they spent living with their fathers.^{37/}

II. LESBIANS AND GAY MEN ARE AS FIT PARENTS AS HETEROSEXUALS.

Scientific research provides no empirical basis for any negative presumption about the fitness of lesbians or gay men as parents. To the contrary, studies of parenting have consistently concluded that the parenting skills of lesbians and of female heterosexuals are comparable.^{38/} Fewer studies have concentrated on the parenting skills of gay men, but research to date offers no reason to believe that gay men are unfit parents.^{39/} Thus, scientific research provides no support for the belief that lesbians or gay men lack the parenting instincts and ability of

35/ Goodman et al., supra, at 849, citing Gottman, 177.

36/ See, e.g., Green, Best Interests, supra, at 13-14; Huggins, supra.

37/ Michael J. Bailey et al., Sexual Orientation of Adult Sons of Gay Fathers, 31 Dev. Psychol. 124, 124-29 (Jan. 1995).

38/ See, e.g., Golombok et al., Infancy, supra, at 787, 789.

39/ See Patterson, Children (1997), supra, at 240-41 (summarizing research).

heterosexuals.

A. Homosexuality Is Not A Mental Disorder.

Professional psychiatric and psychological associations have long rejected the view that homosexuality is a mental disorder, based on extensive empirical research demonstrating that earlier assumptions about homosexuality cannot be justified by scientific observation.^{40/} Nearly a quarter century ago, the American Psychiatric Association removed "homosexuality" from its list of mental disorders,^{41/} declaring that "homosexuality per se implies no impairment in judgment, stability, reliability, or general social or vocational capabilities."^{42/} Following a rigorous review of the scientific evidence, in 1975, amicus APA adopted the same position, urging all mental health professionals to work to dispel the stigma of mental illness long associated with homosexual orientation.^{43/}

Thus, any question about the fitness of gay men and lesbians to be parents, if based on a belief that their sexual

40/ See John C. Gonsiorek, The Empirical Basis of the Demise of the Illness Model of Homosexuality, in Homosexuality: Research Implications for Public Policy 115-136 (J.C. Gonsiorek & J.D. Weinrich eds., 1991).

41/ A mental disorder is "a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful symptom) or disability (i.e., impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom." American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) at xxi (1994).

42/ Resolution of the American Psychiatric Association (Dec. 15, 1973), reprinted in 131 Am. J. Psychiatry 497 (1974).

43/ See American Psychological Association, Minutes of the Annual Meeting of the Council of Representatives, 30 Am. Psychologist 620, 633 (1975).

orientation indicates psychological dysfunction, is entirely unfounded. No scientific evidence supports a view that lesbians and gay men are categorically incapable of being good parents or even less likely to be good parents. Like heterosexuals, lesbians and gay men are highly diverse, having many different backgrounds, interests, occupations, and experiences. In fact, research indicates that with respect to the nonsexual aspects of their lives, lesbians and gay men in general are indistinguishable from the heterosexual population.^{44/}

B. Parenting Skills

Research specifically concentrating on the parenting abilities of lesbians demonstrates a "remarkable absence of distinguishing features between the life-styles, child-rearing practices, and general demographic data" of lesbian mothers and heterosexual mothers.^{45/} Results of one study indicate that lesbian mothers and heterosexual mothers are similar in maternal interest, current lifestyles, and child-rearing practices.^{46/} Another study showed that lesbian mothers, as a group, demonstrated greater concern with their children's long-range development than the heterosexual mothers did.^{47/} A third study

^{44/} See Alan P. Bell & Martin S. Weinberg, Homosexualities: A Study of Diversity Among Men and Women 229-31 (1978).

^{45/} Hoefffer, supra, at 537.

^{46/} Kirkpatrick et al., supra, at 546.

^{47/} Judith A. Miller et al., The Child's Home Environment For Lesbian vs. Heterosexual Mothers: A Neglected Area of Research, 7 J. Homosexuality 49-56 (1981); see also Kirkpatrick et al., 549 ("the lesbian mothers tended to be more concerned with providing male figures for their children than were the comparison mothers").

found that lesbian parents scored better than heterosexual parents on the Parent Awareness Skills Survey ("PASS"), a standard tool for measuring the effectiveness and sensitivity with which a parent responds to typical child care situations.^{48/} Lesbian and heterosexual biological mothers scored comparably. However, lesbian second parents scored considerably better than did fathers.^{49/}

48/ Flaks et al., supra, at 111, 112.

49/ Scientific research also undermines an assumption sometimes expressed about lesbians and gay men in the context of child-rearing, namely that they are more likely to be sexual abusers of children than heterosexuals. See, e.g., Carole Jenny et al., Are Children at Risk for Sexual Abuse by Homosexuals?, 94 Pediatrics 41 (July 1994) (in study of 269 sexually abused children where an adult offender was identified, 88% of the offenders had documented heterosexual relationships and less than 1% were identified as either gay or lesbian); A. Nicholas Groth, Patterns of Sexual Assault Against Children and Adolescents, in Sexual Assault of Children and Adolescents 4-5 (Ann Wolber Burgess et al. eds, 1978) ("[T]he belief that homosexuals are particularly attracted to children is completely unsupported by our data."); Herek, 156 (reviewing the research regarding child molestation and adult sexual orientation and concluding that gay men are not more likely to molest children than heterosexual men). In fact, statistics demonstrate that the vast majority of child molesters are men, and the overwhelming majority of cases involve an adult male abusing a young female, indicating that lesbians and gay men are not more likely to be child sexual abusers. See Patterson, Children (1997), supra, at 246 (summarizing research on sexual abuse).

CONCLUSION

Scientific research has consistently found that the sexual orientation of parents is not a predictive factor as to the parenting ability of those parents or as to the psychological and social development of their children. There is no basis, therefore, for a presumption that lesbian or gay parents are unfit, or less fit than heterosexual parents, or that awarding a lesbian or gay parent custody will have a deleterious effect on the child. Two decades of scientific investigation have, in fact, provided considerable evidence for the opposite conclusion: that children raised by a lesbian or gay parent are as healthy psychologically and socially as children raised by heterosexual parents, and that lesbian mothers are as good parents as heterosexual mothers. Therefore, unless a specific parent's sexual orientation can be shown to have an actual harmful effect on the child, it should not affect the outcome of a custody determination.

Respectfully submitted,

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