

Morality not at issue, gay hearing told

CATHY LORD
Journal Staff Writer

Edmonton

The Delwin Vriend case is not about special rights for homosexuals, nor is it about religion, morality, family values or lifestyle.

It's a question of levelling the playing field, of giving gays the same protection against discrimination that any other minority has, Vriend's lawyer argued Tuesday in the Alberta Court of Appeal.

"This case is about ensuring through human rights legislation that homosexuals can secure a home, have access to work and a meal at a restaurant," said Sheila Greckol. "It's not about advancing a homosexual agenda."

Vriend, 29, was fired as a lab instructor from King's College in Edmonton in 1991 for the sole reason that he is gay. Six months later, he was told he couldn't complain to the Alberta Human Rights Commission because sexual orientation is not protected under human rights legislation.

On April 12, 1994, Court of Queen's Bench Justice Anne Russell ruled the province's individual's Rights Protection Act is unconstitutional because it infringes on charter rights. She said sexual orientation must be included in the act.

The government's appeal of the Russell decision began Tuesday before a three-member panel of the Alberta Court of Appeal.

Lawyer John McCarthy argued that Russell's ruling should be set aside, saying the judge inappropriately entered the public sphere and that the legislature should be deciding the issue, not

THE CASE

Jan. 28, 1991: Delwin Vriend is fired as a lab instructor from King's College because he is a homosexual.

Six months later he was told he couldn't complain about his dismissal to the Alberta Human Rights Commission because sexual orientation is not protected by the Individual's Rights Protection Act.

He then applied to the Court of Queen's Bench saying the act infringes upon the Charter of Rights because it doesn't include sexual orientation.

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McCarthy said the Vriend case is a private matter between Vriend and his former employer and that the charter doesn't pertain to private matters.

"The government neither promotes nor prohibits discrimination based on the basis of sexual orientation; the effect of the legislation is neutral," McCarthy said.

Greckol disagreed.

There has been an outright rejection of amending the act by different Alberta Conservative governments since 1976, she said.

"The theory of human rights legislation is to send a message to the community that discrimination will not be tolerated.

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VRIEND

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"The failure to extend this to homosexuals sends a message discrimination will be tolerated. It's all the more oppressive because the government is making that decision."

Greckol said that by being excluded from the act, homosexuals are denied equal benefit and equal protection under the law, guaranteed by the charter.

"The charter requires that protection be extended to this vulnerable group as it has been to the majority of other groups."

McCarthy also argued that Russell was wrong to take judicial notice — to rule without hearing evidence — that "discrimination against homosexuals is an historical, universal, notorious and indisputable

social reality."

Said Greckol: "Do we need to have a parade of homosexuals testify about discrimination they face, about being thrown out of their jobs, restaurants, about suicide? We all know that homosexuals suffer discrimination."

The appeal courtroom was filled with 14 lawyers. Three represent Vriend, two represent the government and the rest represent six intervenor groups.

The Alberta Civil Liberties Association, Canadian Jewish Congress and Canadian Human Rights Commission support Vriend's position.

The Alberta Federation of Women United for Families, Focus on the Family and The Evangelical Fellowship of Canada support the government.

Lawyers representing the intervenors will argue their points today.