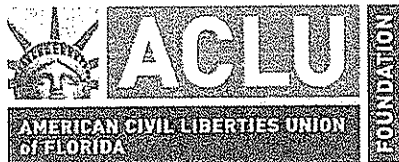


Gill Trial Decision | Miami, Florida | November 25, 2008

Excerpts from
Proposed Findings of
Fact and Conclusions of
Law, as submitted to
the trial court.
Includes excerpts of
biographical
information on experts.



Findings of fact regarding the credibility and qualifications of expert witnesses

Dr. Michael Lamb

222. Dr. Michael Lamb is a developmental psychologist with over 30 years of experience whose research has focused on factors affecting children's development, including in a variety of "non-traditional" family settings. He has also specialized in the role of fathers in children's adjustment. (Tr. 451-67-Lamb.)
223. Dr. Lamb spent 17 years as a senior research scientist for the federal government at the National Institute of Child Health and Development in Washington, D.C., before moving in 2004 to the University of Cambridge in England to serve as the head of the department of psychology and the head of the faculty of social sciences. *Id.*

224. He has authored about 40 books and about 500 articles published in scholarly journals. Some of these publications addressed the topic of the adjustment of children raised by lesbian and gay parents. *Id.*
225. One of the State's experts recognized Dr. Lamb as someone who has a great reputation as a researcher, and someone who is well known and considered an important person. (Tr. 1241-42-Schumm.)
226. Dr. Lamb was qualified by the Court as an expert in psychology and specifically the development and adjustment of children, including children raised by gay parents. (Tr. 467-Lamb.)
227. Dr. Lamb's testimony, including his testimony concerning the factors that predict healthy child adjustment and the adjustment of children raised by gay parents, was credible and persuasive.

Dr. Frederick Berlin

228. Dr. Frederick Berlin is a psychiatrist with over 30 years of experience whose work focuses on human sexuality. He is an associate professor at Johns Hopkins University School of Medicine. He is also the director of a clinic called the National Institute for the Study, Prevention and Treatment of Sexual Trauma. He has a special expertise in sexual disorders. (Tr. 636-49-Berlin.)
229. Dr. Berlin was asked to serve on a subcommittee of paraphilias (or sexual disorders) for the Diagnostic and Statistical Manual of Mental Disorders. He has been invited to speak on the topic of child sexual abuse by the White House and

the United States Senate and he has provided consultation to the Catholic Church concerning child sex abuse. *Id.*

230. Dr. Berlin has treated several hundred pedophiles. *Id.*
231. Dr. Berlin was qualified by the Court as an expert in human sexuality, including homosexuality, pedophilia and child sex abuse. (Tr. 649-Berlin.)
232. Dr. Berlin's testimony, including his testimony concerning child sex abuse, the influence of parent's sexual orientation on children's sexuality, and the fact that homosexuality is not considered a mental disorder within the field of psychiatry, was credible and persuasive.

Dr. Susan Cochran

233. Dr. Susan Cochran is a psychologist and epidemiologist at UCLA's Department of Public Health. She has over 25 years of experience in her field. She has conducted many of the leading studies that examine the rates of health problems – including mental health problems—among gay people compared to heterosexuals, as well as studies examining the health of other minority communities. Dr. Cochran also teaches courses in research methodology and statistical analysis. (Tr. 128-39-Cochran.)
234. Dr. Cochran was recognized as a leading researcher on health disparities between gay people and heterosexuals by experts for the State and they cited to her research in their testimony. (Tr.857-66, 870, 877-79-Rekers; Tr. 1197-Schumm.)
235. Dr. Cochran was qualified by the Court as an expert in psychology and epidemiology with a specialization in health disparities among minority

communities, including lesbians and gay men. She was also qualified as an expert in the use of statistical analysis in social science research. (Tr. 139-41 Cochran.)

236. Dr. Cochran's testimony, including her testimony about the health disparities that correlate with demographic characteristics such as race, gender, income, education, and sexual orientation, was credible and persuasive.

Dr. Margaret Fischl

237. Dr. Margaret Fischl, a Professor of Medicine at the University of Miami School of Medicine, is a physician specializing in HIV and AIDS research and treatment. She is the Director of the AIDS Clinical Research Unit and the Co-Director of the Center for AIDS Research at the university. Her research includes studies of transmission of HIV, including transmission between household members. (Tr. 332-44-Fischl.)

238. Dr. Fischl was qualified by the Court as an expert in transmission of HIV, treatment of HIV, and short and long term outcomes for people living with HIV, AIDS and other STDs. (Tr. 344-47-Fischl.)

239. Her testimony, including about the risk of contracting HIV from HIV+ household members, the health of people with HIV who are being treated and their life expectancy and ability to care for children, and demographic groups impacted by HIV, was credible and persuasive.

Dr. Letitia Anne Peplau

240. Dr. Letitia Anne Peplau is a professor of psychology at UCLA whose research has focused on couple relationships, with a specialization in same-sex couple relationships. She has 35 years of experience in her field. (Tr. 17-22- Peplau.)
241. She was qualified by the Court as an expert in psychology with a specialization in couple relationships—including violence in relationships—including same-sex couple relationships. (Tr. 26-27- Peplau.)
242. Her testimony, including about the scientific research on same-sex and heterosexual couple relationships as well as her testimony on demographic correlates of relationship dissolution, was credible and persuasive.

Patricia Lager

243. Patricia Lager has been a professor of social work at Florida State University for the past 20 years, prior to which she worked for the predecessor of DCF as a caseworker and in other positions. She has authored two textbooks on child welfare practice as well as other publications in this field, and taught courses on this subject. (Tr. 266-73-Lager.)
244. Ms. Lager was qualified by the Court as an expert in child welfare policy and practice, adoption best practices, and the Florida child welfare system. (Tr. 273-74-Lager.)
245. Her testimony, including about why individualized evaluations are the established best practices for adoption, how blanket exclusions like the ban on gay adoptive parents undermine the interests of children by depriving them of permanency, and

the positions of the child welfare professional associations regarding adoption by gay parents, was credible and persuasive.

Dr. David Brodzinsky

246. Dr. David Brodzinsky is a clinical and developmental psychologist. He was a professor of psychology at Rutgers University for 32 years until he retired. Now he works exclusively in his clinical practice. (Tr. 743-58-Brodzinsky.)
247. Dr. Brodzinsky's specialty over the last 25 years has been working with children who are adopted, in foster care or experienced other types of family disruption. While at Rutgers, he headed the Rutgers Foster Care Counseling Project. He has authored five books on adoption as well as numerous scholarly articles. *Id.*
248. Dr. Brodzinsky was qualified by the Court as an expert in the area of child clinical psychology, developmental psychology, a specialist in adoption and foster care, and attachment evaluation and its implication on the adjustment of children in foster care. (Tr. 758-59-Brodzinsky.)
249. Dr. Brodzinsky's expert testimony, including his testimony concerning his evaluation of ██████████ and ██████████ relationship with Martin and ██████████, and the implications for them of being separated from their foster family or adopted by Martin, was credible and persuasive.

Dr. George Rekers

250. Dr. George Rekers is a developmental and clinical psychologist who retired from the University of South Carolina Medical School. (Tr. 810-25-Rekers.)

251. He was qualified by the Court as an expert in the area of clinical psychology and behavioral science, and, in addition, regarding the potential risks and stressors associated with homosexually behaving adults and the effects on children. (Tr. 825-26-Rekers.)
252. Dr. Rekers' testimony did not establish any basis for the exclusion of gay people from adopting.
253. In addition, Dr. Rekers' testimony is not credited by the Court because his testimony at trial demonstrated that his opinions are based not on science, but on his personal ideological views about homosexuality.
254. He said that if sound scientific studies meeting his criteria for reliability found that children of homosexual parents are doing just as well as other children, he would still, as a private citizen, favor the exclusion of homosexuals from adopting. (Tr. 1020-Rekers.)
255. Dr. Rekers, who has been ordained as a minister by the Southern Baptist Convention, testified that he believes that the Bible teaches that homosexual behavior is sinful. (Tr. 1018-19-Rekers.)
256. While Dr. Rekers says his personal religious and ideological beliefs about gay people are separate from his scientific views (Tr. 824-Rekers), the Court finds that this is simply not true.
257. Dr. Rekers acknowledges that he has often merged psychology and his religious beliefs.

258. At Fuller Graduate School of Psychology, a branch of Fuller Theological Seminary, he taught psychology from a Christian perspective. (Tr. 997-99-Rekers.)
259. He was an adjunct professor at Trinity International University, a Christian university where he taught a class about integration of psychology and the Christian faith. (Tr. 1000-Rekers.)
260. Dr. Rekers also gives talks at university Christian campus ministries about integrating psychology and Christian ethics. (Tr. 996-97-Rekers.)
261. Dr. Rekers has specifically merged psychology and his religious beliefs about homosexuality and gender in three books – Growing up Straight: What Every Family Should Know about Homosexuality, Shaping Your Child's Sexual Identity, and The Christian in an Age of Sexual Eclipse (Tr. 1004-Rekers).
262. The following are some passages from these books:

Non-Christian psychologists often encourage their clients to form their own values regarding sexual expression. In so doing, they mistakenly assume that they are providing the most appropriate and sensitive counsel. In reality, they are tacitly creating an impression that the universe was constructed with no moral law inherent to the system, but God has spoken. God has given us explicit instruction as to what his moral laws are. The psychologist who recommends that a person simply define his own sexual values ends up not being an advocate of human freedom; instead, he becomes a revolutionary attempting to overthrow the moral laws of God. Instead of being helped, the client is therefore led down a fanciful path of alleged amorality called liberation. But instead of offering true freedom, this path can lead only to the ultimate personal destruction and social chaos.

(Tr. 1007-09-Rekers.)

An honest, scholarly search for the truth about homosexuality should not stop with psychological or medical information alone. Wise professionals should also consider evidence for moral truth as well. The Bible teaches

that people are foolish if they deny God's reality and live their lives as though He were not there.

* * *

To search for truth about homosexuality in psychology and psychiatry while ignoring God will result in futile and foolish speculations.

(Tr. 1009-12-Rekers.)

In my clinical training, as well as in my experience as a university psychologist, I have been impressed by the devastating radical changes in sexual roles which have occurred in America over the past thirty years. In the push and shove of these social changes, many kinds of individual problems have cropped up for men, women and children. Some unresponsive and insensitive husbands have failed to provide their proper masculine leadership in the home. Some women have allowed themselves to be sucked into the resulting vacuum, overstepping a more natural supportive role in the home. This domestic upheaval has been labeled by many psychologists as the 'dominant wife' syndrome. In other cases, I have seen emotional or merely materialistic motives woo many mothers of preschool children out of their homes and into the job market. This functional desertion has often caused serious emotional conflicts for their children. . . .

Those who counsel people in distress have to be impressed by the clear correlation between the accelerating deterioration of the family unit and the major changes that are taking place in our society's conception of the male and female roles. Could it be that the wholesale American abandonment of the God-ordained male and female roles has brought upon our families a destructive force that will ultimately disintegrate marriage and family, if not soon reversed? I believe that the family will self-destruct in direct proportion to its retreat from the Biblically defined male and female roles.

(Tr. 1016-19-Rekers.)

263. Dr. Rekers attempted to distance himself from these publications, noting that he wrote them in 1982 and asserting that he no longer endorses or believes what is written in them. (Tr. 1048-50-Rekers.) But on cross examination, he acknowledged that in 2001 he affirmed his agreement with the first passage cited

above. (Tr. 1051-53-Rekers.) When asked when he stopped agreeing with it he said "about a year after that, in 2002." (Tr. 1053-54-Rekers.)

264. Moreover, while Dr. Rekers sought to distance himself from these books in court, he took credit for them in a CV that he prepared as recently as 2007. (Tr. 1054-56-Rekers.)

265. The Court finds that Dr. Rekers' testimony about his subsequent rejection of the views he expressed in these books was not truthful.

266. In addition, in some of these books Dr. Rekers expressed views about gay people that call into serious question his ability to offer neutral, unbiased scientific evidence about this group of people. For example, he wrote:

The Gay Liberationists have taken the deliberate ploy of pressing first for legislation to legalize the sexual behavior between two consenting adults. After they have succeeded in winning the emotional war of soothing the public's queasy feelings about homosexual activity among adults, the next planned step of the Gay Liberationists is to press for an elimination of laws of age discrimination (in the terminology of the rhetoric of revolt). This means that the gay activists are now beginning to press for the 'rights of children' to engage in homosexual behavior with adults. This will be their battle to legalize pedophilia!

(Tr. 1013-14-Rekers.)

The Gay Liberation movement has sprung up within our own lifetime. Homosexual activists seek to lure our children into a deceptive and destructive fantasy world that ignores the obvious physical, social, and moral boundaries of sexual expression. Everything that the gay activists are working for stands diametrically opposed to everything concerned parents stand for in seeking future family fulfillment for their children. Parents who are more aware of the tactics of homosexual activists will be better prepared to protect their own children from the ploys of these enemies of normal sexual development.

(Tr. 1015-16-Rekers.)

267. Dr. Rekers' discussion of the scientific research relevant to gay parents shows that his conclusions are driven by his ideology, not a fair and objective reading of the science.
268. For example, he testified that he considers the studies on children of gay parents to be inadequate because they use small convenience samples (although he recognizes that convenience samples are a commonly used research method in developmental psychology (Tr. 981-Rekers)), and says they are all methodologically flawed. He therefore bypasses them and looks to population based research on problems faced by gay adults (e.g. elevated rate of psychiatric disorders) as the relevant research to support his conclusions about the well-being of children of gay parents. (Tr. 874-75, 894-95, 923-25-Rekers.) Yet, he relied on selective findings from some of these same studies on gay parent families to support his opinion about prejudice experienced by children of gay parents. (Tr. 899-903-Rekers.)
269. Similarly, in a 2004 law review article he wrote on gay parenting, Dr. Rekers applied the same shifting standards to studies, criticizing some because of the use of convenience samples but accepting findings from other studies based on the same kinds of samples. (Tr. 202-04-Cochran.) In that same article, he even cited material from a series of books by non-scientists providing narratives about people raised by gay parents, most of which had 50 or fewer subjects, none of which were drawn from representative samples. (Tr. 982-84-Rekers.)
270. Dr. Rekers is also willing to mislead in his presentation of the science. For example, in an article he wrote in a law journal in 2004, he wrote: "the majority of

[homosexuals] have [a] lifetime occurrence of psychological disorders, suicidal ideation, suicide attempt, and substance abuse.” (Tr. 1020-21-Rekers.) When confronted with this passage, he said there was a typo and it should have said “and/or” rather than “and,” so that it should have read: “the majority of homosexuals have lifetime occurrence of psychological disorders, suicidal ideation, suicide attempt, and/or substance abuse.” But he admitted that a majority of homosexuals do not have a lifetime occurrence of suicidal ideation, suicidal attempts and substance abuse, and only have a lifetime occurrence of one of the four items on his list—psychological disorders. (Tr. 1020-22-Rekers.) Even with the correction of the “typo,” this passage is extremely misleading.

271. Dr. Rekers has been criticized in the academic literature for distorting the evidence to make it accord with his ideological beliefs. (Tr. 557-59-Lamb.)
272. That science yields to ideology for Dr. Rekers is perhaps best illustrated by his willingness to ignore the serious psychological harm to children that he acknowledges can result from transitions in foster placements. Dr. Rekers recognizes that children in foster care have already experienced a major loss by being separated from a parent and that for foster children to develop attachments to other adults and then lose those people, that creates additional stress for them and the more transitions a foster child has, the more problems they have. (Tr. 1023-24-Rekers.) Nevertheless, he says he would favor removing a child from a gay foster parent even after ten years to place the child with heterosexuals. *Id.*
273. In sum, the Court finds that Dr. Rekers did not present a neutral, dispassionate, unbiased view of the relevant scientific evidence. Instead, he testified based on his

own personal ideological views about gay people and distorted the scientific literature in an attempt to bring it into line with those views. Based on his testimony and demeanor at trial, the Court finds that Dr. Rekers was not a credible witness and the Court rejects his testimony as unscientific and biased.

274. The Court agrees with the assessment of Dr. Rekers of an Arkansas judge who wrote in 2004 that “Dr. Rekers’ willingness to prioritize his personal beliefs over his function as an expert provider of fact rendered his testimony extremely suspect and of little, if any, assistance to the court . . .” and “Dr. Rekers’ personal agenda caused him to have inconsistent testimony on several issues.” *Howard v. Child Welfare Agency Review Bd.*, 2004 WL 3154530, *8 (Ark. Cir. 2004). In that case, Dr. Rekers served as an expert witness for the State of Arkansas testifying in support of a regulation barring foster parenting by homosexuals.
275. The fact that the State resorted to hiring Dr. Rekers—and paying him a \$60,000 retainer (Tr. 930-Rekers)—despite the fact that he had already been severely discredited by another court in a similar case suggests an absence of credible experts who would testify in support of the prohibition against adoption by gay people.

Dr. Walter Schumm

276. Dr. Walter Schumm is a professor of Family Studies at Kansas State University. (Tr. 1057-78-Schumm.)
277. Dr. Schumm was proffered as an expert in the fields of social science, family and child development, and the empirical and theoretical fields of family studies and

research methodology. Petitioner objected to his qualifications but the Court decided to reserve judgment on qualifications until after hearing the evidence, except it struck at the outset “social science” as an area of qualification. (Tr. 1079-81).

278. Dr. Schumm’s testimony did not provide any support for the exclusion of gay people from adopting.
279. In addition, the Court does not credit Dr. Schumm’s testimony because i) he lacks qualifications to testify about most of the subjects he addressed at trial, and ii) his testimony was not credible.

Qualifications

280. Dr. Schumm offered opinions at trial about a) the child development research on children raised by gay parents, b) the prevalence of psychiatric disorders including substance abuse among gay people, c) the rate of smoking among gay people, d) the sexual orientation of individuals raised by gay parents, and e) the stability of same-sex couple relationships.
281. Dr. Schumm acknowledged that he has no degree in psychology, sociology or social work. (Tr. 1180-Schumm.)
282. Dr. Schumm acknowledged that child development is not one of his assigned areas at Kansas State. (Tr. 1180-81-Schumm.)
283. Dr. Schumm does not consider himself an expert in child welfare policy or practice. (Tr. 1183-Schumm.)
284. With respect to the subjects of psychiatric disorders and substance abuse: Dr. Schumm acknowledged that he never taught any courses on these subjects, the

data and overestimated the significance of findings. (Tr. 193-96-Cochran.) She further testified that the appropriate use of these tests is something that students are taught in first year statistics courses. *Id.*

300. The Court finds that Dr. Schumm is either limited in his knowledge of statistical analysis or has manipulated his analysis to produce findings that support his views. Thus, the Court does not credit the conclusions offered by Dr. Schumm based on his statistical reanalyses because it is incompetent or biased and, instead, accepts the conclusions reported in the peer reviewed scholarly literature that were reported by other expert witnesses.
301. In sum, the Court finds that Dr. Schumm did not present a neutral, dispassionate, unbiased view of the scientific evidence. Based on his testimony and demeanor at trial, the Court finds that Dr. Schumm was not a credible witness and the Court rejects his testimony as unscientific and biased.