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ACLU of Iowa Wins Family Leave for Same-Sex Spouse

Today (Wednesday) the ACLU of Iowa announces another victory for equality on behalf of same-sex couples. This latest breakthrough came on behalf an Iowa prison guard who was denied family medical leave because her spouse was of the same sex. Her ordeal is being presented to Congress today as a prime example of the hardships that result from discrimination against legally married same-sex couples.

“This is a victory for fairness and equality for all legally married Iowans,” said Randall Wilson, legal director of the ACLU of Iowa. “It also sets a precedent for other state agencies, making it clear that discriminating against workers based on sexual orientation is not acceptable.”

The Family and Medical Leave Act (FMLA) protects many employees, including state workers, with up to 12 weeks of unpaid, job-protected leave per year for serious family-related problems such as medical emergencies.

However, when Teresa Heck, who works as a prison guard for the Iowa Department of Corrections, applied to take leave in order to care of her spouse, Rebecca Andrews, in her struggle with ovarian cancer, Heck was denied leave under FMLA. Instead, Heck had to take vacation and her own sick time to get time off to care for the seriously ill Andrews, who continues to battle cancer.

The Iowa Department of Corrections denied Heck’s request, saying it felt bound to follow the restrictions of the federal Defense of Marriage Act (DOMA), which prohibits the recognition of a same sex marriage. Heck tried unsuccessfully to grieve the denial through the Department.

The ACLU of Iowa agreed to take Heck’s case and brought the dispute to the attention of the Iowa Attorney General for a review of state policy. Following that contact, Heck Wednesday was informed by her supervisor that she would now be granted family leave.

“Caring for a spouse who has a life-threatening illness is difficult enough,” says Wilson. “Facing discrimination that complicates your efforts only makes it worse.”

Wilson says that the federal Defense of Marriage Act (DOMA) promotes prejudice against legally married same-sex couples. “The culprit here is DOMA, which unconstitutionally discriminates against people in same sex marriages in very cruel ways.” Wilson said.

Wilson noted that in this case, Iowa was not bound to follow federal Defense of Marriage Act. The Iowa Supreme Court has ruled previously that the state cannot discriminate against same sex married couples.

Meanwhile, the Washington office of the ACLU is presenting a statement today to the Senate Judiciary Committee as part of a congressional hearing on the harm that DOMA has caused to same-sex couples since the act's passage in 1996. Iowa Senator Charles Grassley is a ranking member on that committee.

The statement is being presented because The Respect for Marriage Act (S. 598 and H.R. 116) legislation is pending in both the Senate and the House. This act would repeal DOMA in its entirety, as well as provide all married couples certainty that regardless of where they travel or move in the country, they would not be treated as strangers under federal law.

Heck and Andrews, who live in the Iowa City area, have been together for 13 years. In April, Andrews was diagnosed with a serious form of ovarian cancer. Heck applied for leave under FMLA to care for Andrews and to be able to drive her to doctors' appointments and surgeries. There were two specific incidents during this time that if Heck wasn't available to care for Andrews, she likely would have died.

Heck says she's relieved to now get family leave. "I feel like I was being kicked when I was already down," says Heck. "I defend the citizens of the State of Iowa every day. And when I need some defense in return, I'm told no. Especially when it involves a loved one, that really hurts."

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