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10/27/74
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The effect of the Supreme Court's action in the Acanfora case on the rights of other gay teachers is mixed, in the view of a lawyer for the National Education Association.

On the "optimistic side," said Joel Gewirtz, staff counsel for the teacher's union, "you can't be transferred from the classroom or terminated for homosexuality." This judgment, Gewirtz noted, was made in the original decision handed down by U.S. District Court Judge Joseph Young of Baltimore, and was not challenged in the later decision by the U.S. Court of Appeals in Richmond, Va.

Judge Young ~~had~~ ruled that a homosexual has a right to teach as long as he or she does not attract widespread publicity to his or her homosexuality. He said Acanfora had received such publicity ~~throughout~~ after his transfer that there was a possibility, however remote, that students would somehow be attracted to homosexuality by Acanfora's example. Judge Young therefore denied Acanfora's request to be ~~re~~ returned to the classroom.

The appeals court ~~reversed~~ ^{disagreed with} Judge Young on the question of publicity, but then went on to find another ground on which to deny Acanfora's request. They ruled that he was "not entitled to relief" because he had failed to list a gay ~~campus~~ ^{college} organization ~~among~~ among his activities while a student at Penn State University. Because/Judge Young's stand that a quiet and presumably closeted homosexual can teach, that position is "good law," Gewirtz said.

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On the less optimistic side, Gewirtz continued, ~~xxx~~ gay teachers will have a hard time getting hired in the first place despite their theoretical right to teaching jobs.

"In this day and age, with 10 applicants for every teaching position, if a gay teacher were to put down membership in a gay organization on his job application, they won't hire him, but he won't be able to prove that that was the reason," Gewirtz said.

"So, while he may have the right, to vindicate ~~it~~ that right will be not only expensive but certainly fruitless," he continued.

The two alternatives facing gay teachers, he noted, are either to "not put down these groups on job applications, or not join them."

Gewirtz expressed doubt that the ultimate outcome would have been much better if the Supreme Court had agreed to hear the case.

"If they had granted cert (certiorari, permission to argue the case), I can't imagine that Joe would have won," Gewirtz said.

"They could have ruled that homosexuals shouldn't be teachers," he noted.

"Until judges are willing to face up to what the real implications of their decisions are, things are not going to change -- unless we get a case with airtight facts," the lawyer observed. "Eventually judges think, 'My God, he's going to be teaching my kids.' They're not ready to take that jump."

Despite the dim outlook, Gewirtz said the NEA is willing to support legal action by any gay teacher who is denied employment rights.

"Our policy hasn't changed. On the basic issue, the law is still with us," he said. There are no cases involving "the gay teacher issue as such" now in the courts, he said, although the New Jersey state supreme court recently ruled that a school board could deny a job to a person

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who had undergone surgery to change from a man to a woman.

Gewirtz noted that the NEA spent thousands of dollars on the Acanfora case despite opposition by some homophobic teachers in the association. One ~~xxxxxxx~~ boy's physical education teacher went so far as to tear up his NEA membership card and write a letter ~~saying~~ urging not only firing gay teachers, but shooting them all, Gewirtz recalled wryly.

When the NEA was first ~~xxxxxxx~~ entering the case last winter, Gewirtz estimated that the association's costs for a Supreme Court appeal could mount as high as \$25,000.

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