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WND EXCLUSIVE

'GAYS' MOVE OVER - HERE COME POLYGAMISTS

Idea of multiple partners gaining court, social advocates

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By John Aman

Christmas came early for polygamists in Utah when a federal judge effectively decriminalized plural marriage in the state.

The Dec. 13 decision elated Kody Brown and his four “wives.” (He is legally married to one and lives with the other three and their collective 17 children.) The Browns, who star in the TLC reality show “Sister Wives,” challenged the law in July 2011, charging that it violates their rights to privacy and religious freedom.

“Many people do not approve of plural families,” the family said in a statement after the ruling was announced. “We hope that in time all of our neighbors and fellow citizens will come to respect our own choices as part of this wonderful country of different faiths and beliefs.”

Under way is an appeal of the decision that takes its cue from a 2003 U.S. Supreme Court edict striking down a Texas anti-sodomy law. At the time, Justice Antonin Scalia delivered a thundering dissent to *Lawrence v. Texas*, charging it “decrees the end of all morals legislation,” including laws banning “fornication, bigamy, adultery, adult incest, bestiality, and obscenity.”

Former U.S. senator and presidential candidate Rick Santorum also warned in 2003 that if the “Supreme Court says that you have the right to consensual sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery.”

After December’s polygamy ruling, Santorum tweeted: “Sometimes I hate it when what I predict comes true.”

[Other prominent leaders over the past few years have warned](#) that demands to allow polygamy are coming, based on the same arguments used by homosexual activists to advance their legislative agenda.

Warnings have come from around the world, including Elaine Smith, deputy presiding officer in the Scottish Parliament, former Archbishop of Canterbury George Carey and California Supreme Court Justice Marvin Baxter.

Still illegal

It's still illegal in Utah for people to have more than one marriage license at a time under the decision handed down by U.S. District Court Judge Clark Waddoups. What's changed is that men who legally marry one wife and then live with others – standard practice within the polygamous community – may now do so without fear of state prosecution, although the case already has been elevated to the U.S. Supreme Court.

Not that Utah authorities have aggressively prosecuted polygamy. Despite widespread knowledge of “thousands of polygamist families,” a fact determined in the Brown case, prosecutions have been rare in the past three decades.

Waddoups, appointed to the federal bench by George W. Bush in 2008, did not say polygamy is a right protected under the U.S. Constitution. Instead, he wrote that Utah couldn't ban polygamous cohabitation while ignoring the large number of Utah couples that live together outside of marriage.

Utah's anti-bigamy law prohibits cohabitation but is only applied against those who practice what Waddoups called “religious cohabitation” in polygamous relationships. Criminalizing cohabitation for some, but not for all, the judge declared, violates religious liberty and due process protections in the First and 14th Amendments.

Constitutional law scholar Herbert W. Titus blasted Waddoups' order, calling it a “91-page essay on theology, ethnology, sexology, sociology and psychology masquerading as a legal opinion.”

In “A Queer Thing Happened to America,” author Michael L. Brown explains how America progressed from a time when pursuing a homosexual lifestyle was unacceptable to an era when schoolchildren are taught the meaning of “Gender Queer.”

The former dean of Regent University School of Law, Titus chastised the judge for not applying the “governing precedent,” Reynolds v. U.S. That 1878 Supreme Court verdict upheld federal anti-bigamy law against a claim by George Reynolds, a polygamist and secretary to Mormon leader Brigham Young, that the bigamy ban violated his First Amendment religious liberty to take multiple wives.

Instead of using the Reynolds case to dismiss Kody Brown's lawsuit, Waddoups devoted 10 pages of his lengthy ruling to disparaging “the

morally repugnant reasoning in Reynolds” and what he labels its “racist” and “entrenched” “orientalist mindset.”

Orientalism is a term used by the late Columbia University professor Edward Said for prejudice against Middle Eastern and Asian people, some of whom practice polygamy. That attitude, Waddoups asserts, infected “ruling elites,” including Congress and the U.S. Supreme Court, “during the time period when Reynolds was decided.”

Titus counters that the 19th century ruling is “based upon the moral foundations of the Western world, which were basically the Old and New Testaments together.”

‘Not good law’

But, Waddoups wrote, Reynolds “is not, or should no longer be considered, good law,” and relied instead on the modern Supreme Court’s 2003 ruling that consensual sodomy is a liberty protected under the 14th Amendment.

The “right of homosexual adults to engage in intimate, consensual conduct,” the Supreme Court announced in that case, *Lawrence v. Texas*, is one of those “most intimate and personal choices” that are “central to the liberty protected by the Fourteenth Amendment.”

As many predicted a decade ago, the *Lawrence* ruling has now opened the door not just to strange love, but to big love as well.

Waddoups reasoned, according to Titus, that “if homosexuals can have sexual relationships protected by the due process clause of the 14th Amendment, which is the *Lawrence* case, then why shouldn’t a polygamist, who just wants to religiously cohabit with these women, have the same freedom?”

“This has nothing to do with law,” Titus added. “It has everything to do with sexual promiscuity without limits.”

Waddoups, a 1970 Brigham Young University graduate who helped [launch](#) in 1979 a scholarly Mormon apologetics group, the Foundation for Ancient Research and Mormon Studies, also ignores or dismisses the major issue of pain and injury inflicted on women and children by polygamy.

Kristyn Decker, who was born into a polygamist community, got married at 17 and then escaped her polygamist marriage at age 50, says women do not enter polygamous marriages of their own free will. The author of [“Fifty Years in Polygamy: Big Secrets and Little White Lies,”](#) Decker says the threat of divine punishment is used to pull women into polygamy.

“I don’t believe that even my marriage or anybody else’s, say the Brown

family sister wives or others who speak out, is consensual, because we were all told that we had to live polygamy or we'd be damned to hell. And that's why I consented, with a gun to my head, pretty much. It was do it or else."

Decker, whose mother was the first of her father's 13 wives, faulted the state of Utah for mounting a weak case against polygamy.

"We didn't feel that Utah had any fair representation about what polygamy really is as compared to consensual adult sex," lamented Decker, who attended the trial.

'I wanted to stand up and shout'

"It was just really sad. It was quite pathetic, really, to watch what was going on in court without the true representation [about polygamy's harmful effects]. I wanted to stand up and shout: 'Let me tell you, let me tell you what this is. Let me tell you what polygamy is so you know what's going on here.'"

Polygamy harms women, children and men, according to research provided by Brown University political science professor Rose McDermott for a polygamy trial in British Columbia.

According to British Columbia's Supreme Court, her investigation found that women in polygamous relationships "are at increased risk of mental health problems as a result of higher rates of domestic violence, including sexual abuse, and co-wife conflict."

"They also tend to fare worse financially."

Children also suffer. The court's review of McDermott's research stated that children in polygamous households "face a higher risk of mortality." In addition: "Young girls are often married to much older men and engage in early sexual behavior, which has repercussions for their life expectancy and physical well-being. Where girls give birth frequently, shortened inter-birth intervals pose a heightened risk for various problems which can affect both the mother and the child."

Polygamy reportedly takes its toll on young men, as well. The ratio of young unmarried males jumps skyward in polygamous communities, up to 150 men to 100 women, according to McDermott.

This forces young men out of polygamous communities and shortchanges their start in life.

McDermott writes: "Junior boys who are thrown out of such societies at much greater rates in order to make a sexually asymmetrical system viable,

often receive less education and achieve lower levels of employment, as they are forced onto a society with few skills and no social support.”

These younger males represent “a class of largely poor, young, unmarried men who are statistically predisposed to violence.”

Former Utah county attorney David Leavitt, who won bigamy and child-rape convictions against polygamist Tom Green in 2001 and 2002, has said, “People in the state of Utah simply do not understand, and have not understood for 50 years, the devastating effect that the practice of polygamy has on young girls in our society.”

Polygamy, Levitt asserted, “is abusive to children, abusive to women, and abusive to society.”

Although polygamy derives from the early teachings of the 15-million-member Mormon church, based in Salt Lake City, the church abandoned the teaching and practice of polygamy more than a century ago, in 1890. After the court decision, the church took the occasion to reiterate its condemnation of polygamy and noted that it strictly prohibits the practice today.

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