

Marriage Law Digest

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C.Y. V. H.C.
237 N.Y. Law Journal 22 (col. 1)
New York County Supreme Court
May 30, 2007

After breakup, a partner in a same-sex relationship sought to have their mutual property sold and a partition of the proceedings made. One partner wanted 50 percent of the proceeds and the other said the first should only receive 7 percent (since she had not contributed to down payment, mortgage, etc.). Under principles of equity, the court ordered the partition.

MCDONALD V. COMMONWEALTH
Record No. 061456
Supreme Court of Virginia
June 8, 2007
<http://www.courts.state.va.us/opinions/opns-cvwp/1061456.pdf>

A man in his 40's participated in consensual sodomy with girls aged 16 and 17. He was convicted of violating the state's sodomy statute and his conviction was sustained at the court of appeals.

In his appeal to the supreme court, he argued that the sodomy statute was unconstitutional as applied to him because his partners had reached the age of consent. The supreme court disagreed, even though earlier precedent had invalidated the sodomy statute as applied to adults engaged in non-commercial consensual sodomy in private. The court noted that unlike other sex offense statutes, the sodomy statute has no age restriction and Virginia law defines minors as those under 18. Thus, the statute

was constitutional as applied in this case since the conduct involved minors and the constitutional privacy right applied only to adults.

BALENTINE V. GEHRING
2007 UT App 226
Utah Court of Appeals
June 28, 2007

<http://www.utcourts.gov/opinions/appopin/balentine062807.pdf>

While separated from her husband, a woman became pregnant by another man. She reconciled with her husband and the husband was listed on the child's birth certificate but genetic testing indicated the adulterous partner could be the father. The couple accepted child support and some visitation. When the husband and wife had marital difficulties, the mother signed a statement giving her former sexual partner temporary custody. When the spouses reconciled, the mother signed a new statement terminating the custody but the reputed father refused to return the child and sought custody. On a motion for summary judgment, the trial court held the reputed father did not have standing.

The court of appeals reversed, citing to an old Utah statute (now repealed) allowing a putative father to challenge paternity. The court noted that standing would only be possible if it was established that the paternity challenge would not affect either the child or the marriage. This could only be established after a trial.