



FACT SHEET

Cole v. Arkansas Department of Human Services

ABOUT Cole v. Arkansas Department of Human Services

For the November 2008 election, the Family Council Action Committee successfully carried out the petition drive and campaign to pass Act 1, a ballot initiative that places the benefits to children of being in the best possible home environment ahead of the desires of unmarried, cohabiting couples seeking children through adoption or foster care. Voters approved the act by a 57 percent to 43 percent margin, which prompted the American Civil Liberties Union to file a lawsuit against the state on behalf of same-sex couples, falsely arguing that the law unconstitutionally targets them despite the fact that the law specifically states that it applies to all unmarried, cohabiting couples. ADF attorneys filed a motion to intervene in the lawsuit on behalf of FCAC, arguing that the court should not nullify the democratic process and that Act 1 protects Arkansas children from being placed in a home with sexually involved, unmarried, and generally unstable cohabiting adults. The language of Act 1 reads, “A minor may not be adopted or placed in a foster home if the individual seeking to adopt or to serve as a foster parent is cohabiting with a sexual partner outside of a marriage which is valid under the constitution and laws of this state. The prohibition of this section applies equally to cohabiting opposite-sex and same-sex individuals.”

CURRENT STATUS OF Cole v. Arkansas Department of Human Services AS OF 3/16/11

In January 2009, ADF attorneys filed a motion to intervene on behalf of FCAC to join the state in defending against the ACLU’s lawsuit. The Circuit Court of Pulaski County, Second Division, granted the motion to intervene in March 2009 and struck down Act 1 after a hearing the following month. ADF attorneys appealed the decision and filed an opening brief with the Arkansas Supreme Court last September. ADF Senior Legal Counsel Byron Babione will present oral argument in favor of Act 1 before the Arkansas Supreme Court on March 17.

FOCUS OF HEARING – WHAT IS AT STAKE?

The court will decide if an Arkansas judge was justified in striking down the voter-approved Act 1, and ultimately whether the law should be reinstated. What is at stake is whether a voter-approved measure designed to provide children the best possible home environment can be undermined by a lawsuit that seeks to place the desire of unmarried, cohabiting couples to adopt or become foster parents ahead of the proven need of children to have stable homes. Scientific research consistently establishes that a home with a married mother and father is the best possible living environment for children.

CONTACT

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ABOUT ADF

ADF is a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith. Launched in 1994, ADF employs a unique combination of strategy, training, funding, and litigation to protect and preserve religious liberty, the sanctity of life, marriage, and the family.

ABOUT Byron Babione

Byron Babione (BAB’-ee-own) serves as senior legal counsel with the Alliance Defense Fund at its headquarters in Scottsdale, Arizona. He is a member of the Virginia, New York, and Arizona bars and has practiced trial and appellate advocacy in numerous civil rights cases in federal and state court. Babione is a graduate of George Mason University and has practiced law since 1993 after earning his J.D. from the Regent University School of Law.

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