

# A Survey of Legal Cases

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# Types of HIV/AIDS Cases

- ◆ Parents Defending Kids
- ◆ Adult Sexual Cases
- ◆ Other Adult Cases
- ◆ Fighting Back

# Parents Defending Kids

- ◆ HIV-positive mothers are told they must give drugs to their baby, must not breastfeed.
- ◆ Mothers are also coerced to take drugs, have a C-Section, undergo 'vaginal cleansing' and more.

# Valerie Emerson (1998)

- ◆ Valerie, son Nik and daughter Tia were on AZT.
- ◆ Tia died and Valerie stopped drugs for her and Nik.
- ◆ State of Main took Valerie to court.
- ◆ In September 1998 Judge Clapp said, "She has placed her faith in this medical approach in the past and has lost a child."
- ◆ Valerie retained fully custody of Nik.
- ◆ Nik died of cancer in 2006.

# The Tysons (1999)

- ◆ Kathleen Tyson was healthy and HIV-positive.
- ◆ Husband David was HIV-negative.
- ◆ Their relationship was more than 10 years.
- ◆ They objected to medication for their new baby and wanted to breastfeed.
- ◆ State of Oregon took them to court and won.
- ◆ Tyson's retained physical custody but were forced to medicate Felix with AZT and use formula.

# Sophie Brassard (1999)

- ◆ HIV+ single mother of two HIV+ sons in Montreal.
- ◆ One son had bronchitis diagnosed as PCP.
- ◆ Sophie refused to medicate her sons and was taken to court.
- ◆ Sophie lost and custody was given to her father.
- ◆ Sophie 'kidnapped' her children and took them to Africa.
- ◆ She was unable to survive there and returned, giving her children back to the state.
- ◆ She died shortly after – of a broken heart or “AIDS”?

# Mr. and Mrs. X (2004)

- ◆ Lived in a North American city.
- ◆ Both parents and one child were HIV+.
- ◆ Unexpectedly had another infant.
- ◆ Mother decided to formula feed to avoid trouble.
- ◆ Infant was hospitalized with a respiratory tract problem.
- ◆ Ended up on numerous drugs including one antiviral piped directly in via a tube that caused serious heart damage.
- ◆ Massaged the system until the baby came home.
- ◆ Sold their house, left no forwarding address, moved to another jurisdiction.

# Cecília Sliker (2008)

- ◆ HIV+ Florida mother.
- ◆ Charged with felony child neglect for avoiding drugs for her child.
- ◆ Newspaper reports child has "AIDS" but then says just a cough.
- ◆ Sentence could have been up to 15 years.
- ◆ Mother actually given 2 years probation.



# Summary of Issues

- ◆ Breastfeeding virtually banned in 'rich' countries, discouraged where HIV+ formula feeding programs exist.
- ◆ Mothers strongly encouraged to take AZT, Nevirapine or similar drugs.
- ◆ Infants forced to take drugs in 'rich' countries.
- ◆ C-Section often encouraged.
- ◆ Vaginal 'cleansing' with powerful chemicals.
- ◆ System can be managed as long as parents appear to be compliant.
- ◆ Jail for parents is unlikely, but loss of custody is common.

# Adult Sexual Cases

- ◆ Different legal justifications but consensual sex usually becomes sexual assault (rape).
- ◆ Prison sentences are lengthiest and most likely for heterosexual men.

# Nushawn Williams (1999)

- ◆ Young 'drifter' in New York State.
- ◆ Accused of sleeping with at least 48 women and 'infecting' 13, a statistical improbability.
- ◆ Described as a 'sex for drugs' arrangement.
- ◆ Phylogenetic ('genetic family tree') analysis used to obtain conviction – diagrams showed that the 'virus' in the women was most similar to his.
- ◆ Sentenced to 4-12 years but was still in jail in 2009.

# Parenzee Case (2006-7)

- ◆ Black South African living in Australia.
- ◆ Perth Group were witnesses for the defence and argued that the virus was not proven to exist.
- ◆ They were not accepted as experts leaving the defence defenceless.
- ◆ Lawyer Kevin Borick was strongly committed to the case.
- ◆ Strategy dispute between Borick and the Perth Group: should other witnesses be brought in? Should other issues be addressed?
- ◆ Parenzee abandoned appeals and is serving a 9 year sentence.

# Pfc Johnny Lamar Dalton (2007)

- ◆ US soldier in Fort Bragg, NC.
- ◆ Had sex with a 17 year old boy.
- ◆ Charged with crimes against nature, assault and assault with a deadly weapon (HIV).
- ◆ Pleaded guilty and received 25-40 months in jail, reduction in rank and dishonorable discharge.

# Trevis Smith (2007-8)

- ◆ Black American playing Canadian Football in Saskatchewan.
- ◆ Charged for exposing two women to HIV. Consensual sex = aggravated sexual assault.
- ◆ Claimed to have used condoms. Women said he was lying.
- ◆ Refused offers to mount a dissident-based defence.
- ◆ Sentenced to 5-1/2 years.
- ◆ Will be deported to USA.

# Carl Leone (2007-8)

- ◆ White businessman in Windsor, Canada.
- ◆ Accused of aggravated sexual assault for having sex with 15 women – 5 HIV+.
- ◆ Persuaded to hand over list of sexual contacts to get lighter treatment.
- ◆ Phylogenetic analysis used to assist conviction.
- ◆ Persuaded to plead guilty to avoid a heavy sentence.
- ◆ Almost was listed as a “dangerous sex offender”, a first for a first offence. This would have meant that parole never ended even if jail did.
- ◆ Sentenced to 18 years (plus no credit for 3 year’s house arrest)

# Charles Mzite (2008-9)

- ◆ Zimbabwean musician living in Canada, even had an appearance on Oprah.
- ◆ Accused of sexual relations with four women.
- ◆ Dates of his HIV tests were not well known and he may not have picked up his positive test in Canada.
- ◆ Lawyer was aware of dissident arguments but chose not to use them, had a “fool-proof” defense.
- ◆ Convicted of all charges and sentenced to 10 years.
- ◆ Will probably be deported to Zimbabwe afterwards.



# Johnson Aziga (2005-9)

- ◆ Ugandan immigrant to Canada
- ◆ Accused of infecting several women.
- ◆ Two died of Non-Hodgkins Lymphoma, an AZT side effect.
- ◆ This justified First Degree Murder Charges.
- ◆ One set of lawyers agreed to a dissident approach but Aziga fired them.
- ◆ He was convicted of First Degree Murder.

# Philippe Padieu (2007-9)

- ◆ Gym instructor in Dallas.
- ◆ Four of his lovers tested HIV-positive.
- ◆ Charged with six counts of aggravated assault, with a deadly weapon (his body fluids).
- ◆ Case received extensive media coverage with his alleged victims becoming media stars.
- ◆ Padieu received a 45 year sentence.

# Summary

- ◆ Mostly black, heterosexual men.
- ◆ HIV likened to a deadly weapon.
- ◆ HIV status of partners has little impact.
- ◆ Claims of 'safe sex' generally fail.
- ◆ Phylogenetic analysis often used and always concordant with guilt.
- ◆ Lengthy prison sentences for men.

# Other Adult Cases

- ◆ Brian Stewart accused of injecting HIV+ blood into his son. Only circumstantial evidence. In 1998 sentenced to life in prison. Parole possible in 2011.
- ◆ Willie Campbell, a Dallas drifter accused of spitting at a police officer. HIV+ so saliva is classified as a deadly weapon. Receives a 35 year prison sentence.

# Fighting Back

- ◆ AIDS Rethinkers sometimes hit back at the system.
- ◆ Kim Bannon based case on consumer protection laws but could not find a useful lawyer.
- ◆ Audrey Serrano won a large settlement after she was found HIV-negative after years on AIDS drugs.
- ◆ María Papagiannidou is suing Greek institutions for a false death sentence and tremendous health problems during years on AIDS drugs.
- ◆ Celia Farber is suing her critics for libel.

# What's Needed?

- ◆ Development of a database of cases.
- ◆ Legal strategy development.
- ◆ Money (lots of).
- ◆ Right lawyers.
- ◆ Right clients.
- ◆ Right case.