Odd Boy Out

Bert has two daddies. When Florida learned that he doesn't have HIV, it made plans to find him a new, straight family. But gay parents don't go gently. Degen Penner reports on the lawsuit even lesbian mom Rosie O'Donnell came out of the closet for.

June 1, 2002 By Degen Pener

The parents in the house on North Willamette Boulevard in Portland, Oregon, are a loving pair who run a tight ship. No TV allowed, and lights out by 9 p.m. Eleven-year-old Bert, his sister and three brothers are not only expected to do chores -- their allowances are docked if they don't. As dad Steve Lofton chats with me over the phone, I can hear his kids crashing headlong through the yard. "Boys, get out of the ivy," he bellows.

This could be any home in America, with a couple of giant twists. For one, Bert and his siblings have two daddies -- Lofton and Roger Croteau, gay men in their mid-40s who have been together since 1984. And when the neighbors dropped by recently, they didn't want to borrow a cup of sugar. "They needed some Norvir," Lofton says. But the HIV meds aren't for Lofton and Croteau, who escaped their generation's viral genocide. They're for Bert's siblings -- Frank, 14; Tracy, 14; Wayne, 8; and Ernie, 5 -- each of whom was infected at birth. "We've been through it all -- hospitalizations, research protocols," Lofton says with a typically laid-back laugh. "We've had to readjust their medications. But everyone is doing really well right now." The happily harried couple has just come in from taking their brood swimming. "If it wasn't for the fact that we can't adopt, I just don't think we're real newsworthy. We're just trying to raise a family."

But the politics of AIDS won't let this family be. With the blessing of the state of Florida, Croteau and Lofton have been parenting Bert, Frank and Tracy since they were infants. Now the state's Department of Children and Families (DCF) is trying to take Bert away.

Born with his mom's HIV antibodies, Bert cleared them at 18 months and then tested negative. When he was 5, DCF officials happened to notice not only that he was thriving in the Lofton-Croteau household but that he had "sero-reverted" -- and they immediately reclassified him as "adoptable." But the two men, who have cared for Bert since he was 9 weeks old, can't adopt him because Florida bars gay men and lesbians from doing so. The Sunshine State passed the law 25 years ago, during Anita Bryant's homophobic "Save the Children" campaign. (While Utah and Mississippi are the only other two states to have a similar law on the books, every few years the Christian right in almost every state sponsors such a ballot initiative. See "How to Parent".)

Should Florida find a heterosexual couple to adopt Bert -- and given the high status and stakes of

the case, such a couple is likely to come forward -- he could be thieved away in a flash. That's why the American Civil Liberties Union (ACLU), on behalf of Lofton-Croteau and two other gay foster families, filed a federal lawsuit challenging the Florida law three years ago.

Florida is holding its course, despite the fact that both the American Psychological Association and the American Academy of Pediatrics recently released studies showing that kids develop just as well with homosexual as with heterosexual parents. While the antigay aspect has received the most attention, even more obnoxious may be the fact that the law encodes children with HIV -- Bert's brothers and sister -- as second-class citizens, damaged goods. "Because Bert is HIV negative, he's supposedly a more desirable candidate for adoption," Lofton says.

Ironically, Florida's DCF has known from day one of Lofton and Croteau's sexuality. In 1998 they were even named outstanding foster parents of the year by the Children's Home Society, one of Miami's most respected kids' social-service agencies. After retagging Bert as adoptable, the state apparently filed and forgot his case for years, Lofton says, "but things went at full speed when we filed the lawsuit." On June 21, 2001, the still-outraged dad recalls, a state official called to reiterate that the process of finding a new home for Bert was going forward -- and by the way, did Lofton know of anyone interested in adopting his son? Once, a DCF case worker even visited Bert's school without warning and pulled him out of class to snap a photo for his file.

Florida argues, predictably, that it's simply following orders. Long under fire for its poor child-welfare standards, starting in 1998 the state accelerated its efforts to place foster children in adoptive homes. "Every type of family has been affected -- all races, creeds and nationalities," Owen Roach, a DCF spokesperson, told *Rosie* magazine in April. "The goal is to get kids into a good home, a loving home, a permanent home."

Which is precisely where Bert already is, argued the ACLU. And this spring, after a federal judge in Florida threw out the suit without a trial, the organization appealed to the 11th circuit court in Atlanta -- and to the court of public opinion. Then, after lengthy negotiations with the ACLU, Rosie O'Donnell supplied the all-important celebrity hook, coming out as a lesbian mom and champion of gay adoption. The family hit prime time in a profile by ABC's Diane Sawyer -- intercut with O'Donnell's less-than-revelatory revelations. "I know I'm a really good mother.... And I have every right to parent," O'Donnell told Sawyer. "It takes a lot to become a foster parent.... You have to really want to save a child who others have deemed unsaveable. And for the state of Florida to tell *anyone* who's willing, capable and able to do that, that they're unworthy, is wrong." Since then, Lofton and Croteau have received hundreds of letters of support. (To read more about the case, including court documents, or to contact Florida officials with your own opinion, visit www.lethimstay.com).

Bert himself knows very little of the controversy swirling around him. (Lofton and Croteau agreed to talk to *POZ* on the condition that the children not be interviewed.) His parents have told him only that they are suing to be able to legally adopt him -- as if it were a mere matter of semantics. "It's wrong to tell any child that something more powerful than us could come into our house and take him away," Lofton says firmly. And imagine if Bert could grasp the whole, surreal truth: that if

he were HIV positive, the state would leave the family in peace. “The [adoption] issues are political, and they don’t really have anything to do with an understanding of the concept of attachment. That’s how we become people -- by attaching to our families,” says Jennifer Havens, MD, director of child and adolescent psychiatry at the Children’s Hospital of New York Presbyterian Hospital. “Taking any kid away from their parents at age 10 would be incredibly destructive.”

Florida begs to differ (as does President Bush). No matter how the DCF spins the media, in its legal papers the state defends the ban on gay adoption as necessary because children are better off with a man and woman bound in sacred wedlock. Never mind that a quarter of kids lucky enough to be adopted out of foster care end up with single parents.

Lofton and Croteau never set out to spearhead a gay-rights crusade. When they met 18 years ago in a California nursing school (“in Bedpan 101,” Lofton says), playing Mother Goose was the last thing on their minds. The couple moved in the mid-’80s to the gay resort of South Beach, Florida. “We were typical homos,” recalls Croteau, the family breadwinner, who still puts in long hours as a nurse in pediatric immunology at Oregon Health and Science University. “Both working. Disposable income. Our biggest worry was getting time off from work.”

Work was nursing infants with HIV in the AIDS ward. “There were a lot of sick kids. We’d take care of them in cribs in the hall,” Lofton says of the “boarder babies” either abandoned in the hospital or not allowed to go home with unfit parents. “They would get well, but there was no place for them to go. They would languish in the hospital and then get sick again. I was approached by state social workers and asked, ’Would you be interested in taking a child home?’”

The two men knew AIDS’ dirty work firsthand. “I crossed out half the names in my address book in the mid-’80s,” Lofton says. But witnessing all the babies who didn’t make it was even more compelling. “If you have a baby die in your arms, you realize that life’s too short not to do something,” Croteau says. When they first brought home Frank, Tracy, Bert and Ginger (who died in 1995 at age 6), they expected the deal to be short term. Lofton quit nursing to become a full-time Mr. Mom, as Florida law requires. “The kids were ’terminally ill.’ In ’87, the idea was, few would survive beyond age 2,” Lofton says. But under their care, three of the babies blossomed -- talking, walking, then even outrunning death until HAART propelled them into early adolescence. “There was no turning back. It wasn’t even a thought,” Lofton says, revealing the fighting spirit he has instilled in his kids.

For years, the family made monthly trips to the National Institutes of Health in Bethesda, Maryland, so the kids could benefit from experimental treatments and state-of-the-art care. The four HIVers are all on meds and horse healthy -- witness the background banter and loud laughter over the phone. “They are a model family,” says their doctor, Paul Lewis, MD, assistant professor of pediatrics at Portland’s Doernbecher Children’s Hospital. “They come to their appointments. They always take their medicines. The proof is in the labs. All the kids have undetectable viral loads.”

Lofton and Croteau have also had to deal with the problems and prejudice that come with being

such an “alternative” family. Once on a school field trip, Lofton handed Frank his syringe to take his AZT. Witnessing this, another parent freaked out, withdrew her child from the school and began stirring up trouble. In response, Lofton organized a meeting of the school’s Parent Teacher Student Association. “The health department came and talked about AIDS. It was a perfect opportunity for us to educate,” Lofton says.

But it was the death of the frail Ginger that was most devastating. Tracy, her older sister, took it the hardest. “They did everything together. They dressed up and had all their wigs and all their dolls,” Croteau says. Ginger’s death made her survivors’ sense of mortality all too sharp. “It took a lot of reassurance that they were feeling good and weren’t going to the doctor for anything out of the ordinary,” Lofton says. “We had to go on with the normal.”

A vibrant, robust boy, Bert has a winning smile and an interest in dance and theater, but an outright obsession with sports -- basketball and baseball, swimming and snowboarding. He may be the middle kid, but he’s not exactly the still eye of a legal hurricane. For one, he is too much of a mischief-maker, Croteau says with a laugh. “I remember a birthday, probably his fifth, and he said, ’What are we gonna do?’ I said, ’You can do anything you want to.’ You know what his answer was? ’Can we throw rocks through the window?’ That’s a classic Bert remark.”

But being the lone neggie in an otherwise-positive brood comes with some baggage. “Bert sometimes felt a little odd, especially at medication time,” Croteau says. “He was like ’Why don’t I have to take all those pills?’ So we gave him vitamins. I don’t think he feels odd anymore. I think he likes it when everyone else has to get their blood drawn -- but he doesn’t have to.”

His older brother, Frank, broke in the fledgling parents. He was 8 months old when his mother, dying of AIDS, entrusted him to the couple. Now Frank is an eighth-grader with a passion for art. “He’s mature for 14,” Croteau says. “He loves to draw. He’s written plays and acted in them. He just bought himself a bass guitar to play.”

Tracy came soon after Frank. She was 12 months old, 12 pounds light and couldn’t hold a bottle. “Tracy had been brought to the hospital many times for different illnesses, and no one would visit,” Croteau says. Today, Tracy is in seventh grade and “high maintenance,” he says. “She’s somewhat moody. She has a learning disability. The other side is, she’s got a great personality and a lot of friends.”

Four years ago, the family left Florida for Portland to be near Lofton’s parents. Croteau changed jobs, while Lofton continued as an overtime parent. A year after moving, Oregon foster-care officials asked if they would open their house to two more neglected HIVers -- brothers Wayne and Ernie, then 5 and 2. “They were undersized and emotionally delayed,” Lofton says. “They had gastrostomy tubes in their stomach for their meds.”

When they showed up, Bert, who is Hispanic, was caught off guard. (Frank and Tracy are African American.) “He said, ’You didn’t tell me they were white.’ We had never thought about mentioning race. It was never an issue,” Lofton recalls. But Wayne and Ernie were quickly accepted. “Within eight weeks, they were totally bonded,” Lofton continues. “They were thriving in the routine of our

house.” So much so that their parents were soon able to remove their g-tubes. “It was exciting for Wayne and Ernie to see Frank and Tracy taking their meds by mouth. They basically jumped right in to model them.”

The new kids on the block gave the HIV vets a fresh take on the disease. The older kids could see by contrast how far they had come. “They were asking, ’Was I that sick? Was I that little?’” says Lofton. Wayne, for his part, came to see that HIV isn’t a death sentence. “He had been told it was going to kill him. It took some time for him to see that if you live happily and healthily, you can live a long time,” Lofton says.

Ernie is now a high-energy 5, “one of the most talkative kids we’ve had,” Croteau says. Towheaded Wayne, in second grade, is reading at a fourth-grade level. But Wayne has also been the couple’s most challenging child, because he’s the only one they’ve brought home when he wasn’t a baby. “Wayne has problems with trust,” Lofton says simply.

But given this family’s track record, Wayne will undoubtedly come around. “I have a colleague, a pediatrician with three kids,” says their doctor, Paul Lewis. “She comes to Roger for parenting advice and to discuss behavioral issues. He knows how to do it. Tell that to some judge.”

Lofton and Croteau plan to, even if they have to take their case all the way to the Supreme Court. Meanwhile, despite Florida’s efforts to place its foster children in permanent homes with all due speed, some 3,400 still wait. The ACLU argues that by denying gay men and lesbians the right to adopt, the state is not only discriminating against them but exacerbating its problem by depriving these kids of loving families.

Besides, hell hath no fury like a gay daddy scorned. “Bert’s our son. We’re not going to give him up because of some legislative act based on bigotry,” Croteau says flatly. “This case isn’t about gay rights. It’s more about children’s rights. If we can get this law overturned and get one more child in a home, then it’s well worth the fight.”

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