Supremes Reunion

April 1, 2000 By Shana Naomi Krochmal

The nation's highest court kicked off the New Year with two rulings that limit the rights of HIVers. But because the decisions were not accompanied by any comment from the justices, neither sets a legal precedent for other cases or blocks the court from hearing similar claims in the future.

In the case of *Doe v. Mutual of Omaha Insurance Company*, the court upheld limits on health care policies bought by two men (named Doe to protect their identities) to lifetime caps on AIDS-related claims—$25,000 for one, $100,000 for the other, as opposed to the $1 million caps for other diseases. They charged that Mutual of Omaha had violated the Americans with Disabilities Act (ADA) by offering more restrictive coverage because they were HIV positive.

Mutual of Omaha's lawyers argued that the company did not refuse policies to HIVers and that it similarly limited claims for conditions such as alcoholism, drug addiction and mental illness.

The second suit, *Davis v. Hopper*, was filed in 1985 on behalf of hundreds of HIV positive Alabama prisoners who were isolated and banned from participation in group programs, including some religious services, through which they might have come into contact with HIV negative prisoners. Prison officials justified the policy by pointing to significantly lower transmission rates than that of other states' prisons—in eight years, only two out of 30,000 prisoners seroconverted, they said.

Though advocates argued that segregation should be allowed only on a case-by-case basis—under the ADA, people who are a "direct threat to the health and safety of others" can legally be barred from activities—the court once again ruled in favor of the prison officials. A 1998 Supreme Court ruling required that "objective, scientific information" be used to determine whether there was enough risk to justify such separation.

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