

POZ wrestler in legal limbo

Bay Area Reporter, January 12, 2008

Despite having his conviction for intentionally infecting another man with HIV thrown out by a court of appeals last month, wrestler Michael Johnson remains in legal limbo as prosecutors seem hell-bent to extract every ounce of penalty they can from the state's draconian and antiquated statutes.

A panel of the Missouri Court of Appeals in December overturned Johnson's conviction for knowingly infecting one man with HIV and endangering four other sexual partners, saying that the prosecution had engaged in a "a trial-by-ambush strategy" by waiting until the last minute to reveal key evidence. Activists have been working behind the scenes for Johnson, but over the weekend outgoing Governor Jay Nixon declined to offer Johnson clemency, and St. Charles County prosecutors fought to have the appellate panel's decision overturned.

If successful, the move by county prosecutors would reinstate a 30-year prison sentence under a penal code HIV activists call barbaric and counter to public welfare (*See January 23, 2014 JockTalk*). Under Missouri laws, written decades ago when fear and ignorance plagued public fears regarding HIV and AIDS, it is a crime for an HIV-positive person to knowingly have unprotected sex.

Repeated calls to the county prosecutor's office were not immediately returned.

Johnson, a former national junior college wrestling champion who was then wrestling for Lindenwood University in St. Louis, was arrested in October 2013 on allegations he had had unprotected sex with several partners and lied about his status. He was convicted of one count of recklessly infecting another with HIV, as well as four counts of exposing or trying to expose others and sentenced to concurrent 30-year prison terms.

Health professionals have been telling us since the 1980s not to accept the risk of unprotected sex without certain knowledge of your partner's HIV status. Don't assume he is negative just because he looks healthy or says he's not infected.

The antiquated laws under which Johnson was convicted spit in the face of that good sense. They infantilize and enable the hapless souls that do not assume responsibility for their own actions and who blame others for what they encounter.

And this is not just the case in Missouri. According to the Center for HIV Law and Policy, "People are being imprisoned for decades, and in many cases have to register as sex offenders, as a consequence of exaggerated fears about HIV. Most of these cases involve consensual sex or conduct such as spitting and biting that has only a remote possibility of HIV exposure. For example, a number of states have laws that make it a felony for someone who has had a positive HIV test to spit on or touch another person with blood or saliva."

Activists also note that the cases adhere to the pattern seen in the Johnson case: poor African-American individuals end up in prison while white sexual partners remain free and with greater access to AIDS treatments and education.

If county prosecutors are successful in having the conviction reinstated or hold a new trial with a new conviction, they will be flying in the face of virtually every human rights organization concerned about laws criminalizing HIV, from Athlete Ally to the National Center for Lesbian Rights. A friend of the court paper filed by CHLP and co-signed by dozens of other organizations during the trial, said the organizations had "from a variety of different perspectives, provided medical, mental health, social, and advocacy services for those who suffer discrimination; each believes that an approach rooted in research, science, and objective facts is the best way to counter prejudice and end the HIV epidemic. HIV-specific criminal laws like the one used to punish Mr. Johnson take the opposite approach – they are based in an outdated understanding of HIV and reflect invidious discrimination against people living with HIV. Amici thus join here to respectfully ask this court to apply reason, objective fact, and established constitutional and statutory law to overturn Mr. Johnson's unjust sentence."

A friend of mine, fellow wrestler Akil Patterson, is one of those who have worked in the background on Johnson's behalf, and done much to provide him with spiritual counseling.

"As friends and advocates for Michael Johnson have grown, we are tasked with supporting him first as a human and then secondly as a person living with HIV while in jail," Patterson said. "My hope is that each year we apply for clemency and that we help to support the creation of a legal defense fund since so many of the national LGBT and black organizations have yet to set something like this up for our community. We hope that in the months that follow, we can create change from inside legislative offices and in the hearts and minds of people who are not currently living with HIV."