

Justices Broaden Dramshop Statute

by Molly Guthrey

LIQUOR LAW COVERS UNMARRIED COUPLES, OTHER NON-RELATIVES

On the night before Michael Lefto's wedding in August 1993, a friend of his reportedly got so drunk during their outing at the Hogsbreath Bar in Little Canada that he couldn't even make it to the bathroom to vomit. The bar's staff, however, allegedly kept serving the friend more alcohol.

On the way home, the friend's car rolled and Lefto was thrown from the vehicle. Lefto suffered a serious, permanent brain injury from the crash and was in a coma on his wedding day.

Lefto's wife, who was his fiancée at the time of the crash, sued Hogsbreath in Ramsey County District Court. Desiree Lefto argued that the bar violated the state's dramshop law by serving liquor to an intoxicated person and therefore must be held responsible for the loss of support to her and her small daughter, whom Lefto was helping raise.

Hogsbreath argued that because the fiancée and her daughter didn't have a legally binding relationship with Lefto at the time - such as that of a spouse, child, parent or employer - they didn't have the standing to sue.

But Thursday, in a groundbreaking 5-2 decision, the Minnesota Supreme Court said the wording of the Minnesota dramshop law does cover people such as Lefto's fiancée. That means siblings, unmarried couples, gay couples and others may now have a better chance at bringing similar lawsuits under the law.

It's a decision that was heralded as responsible by Bonnie Labatt, executive director of Mothers Against Drunk Driving's Minnesota chapter. But it was criticized as overreaching and costly for businesses by both Jerome Abrams, an attorney for Hogsbreath, and by John Berglund, executive director of the Minnesota Licensed Beverage Association, a group representing bars, restaurants and liquor stores.

Berglund said the association may ask the Legislature next session to take a look at the wording of the law.

The statute in question says that a "spouse, child, parent, guardian, employer or other person injured in person, property or means of support, or who incurs other pecuniary loss, has a right of action." In its decision, the high court considered whether Lefto's fiancée and her daughter are covered under the "other person" wording. At the time of the crash, the couple had been living together for several years, were raising her child together, shared a joint checking account and also owned property together.

"We conclude that Desiree and Nicole Lefto are within the class of people having a right of action under the Act," Justice Alan Page wrote for the majority.

In a dissenting opinion by Justice Edward Stringer, and joined by Justice Esther Tomljanovich, Stringer said he believed the fiancée was not entitled to bring suit because there was no legal relationship at the time of the accident. He also predicted problems resulting from this ruling:

"... The majority in effect converts the wording of the statute from 'other person' to every person, because there are no limits to who can recover under the statute so long as damages can be proven," Stringer wrote. "The majority's analysis would permit recovery, for example, to a retail sales establishment that could prove that the injured party was a good customer and his loss of income due to his injury occurring because of an illegal sale of alcoholic beverages prevented him from making his customary purchases at the retail store."

The majority disagreed with Stringer's arguments and noted that the person suing will still have to establish that they were injured by an intoxicated person or by the intoxication of another person. Furthermore, the majority said, a plaintiff must still show that "his or her injury was reasonably foreseeable and proximately caused by the intoxicated person."

The Leftos were married in 1994, but have gone through many financial hardships because of Michael Lefto's injuries. They have since moved to California to live with Desiree Lefto's family, says their attorney, Art Kosieradzki.

The lawsuit against the bar will now return to Ramsey County District Court and move toward a trial date.