

## **Court Case Involving a Therapist's Refusal to Counsel Homosexual Clients**

This excerpt is taken directly from Corey, Corey, and Callanan (2007), "a court case involving a therapist's refusal to counsel homosexual clients" (pp. 138-141).

In the "Legal and Ethical Issues in Counseling Homosexual Clients" article, Hermann and Herlihy (2006) describe the case of *Bruff v. North Mississippi Health Services, Inc.* (2001). This interesting case illustrates the complexity counselors confront when their value system and religious beliefs conflict with their client's issues. This section is based largely on Hermann and Herlihy's provocative article.

In 1996, Jane Doe initiated a counseling relationship with Bruff, a counselor employed at the North Mississippi Medical Center, an employee assistance program provider. After several sessions, Jane Doe informed Bruff that she was a lesbian and wanted to explore her relationship with her partner. Bruff refused on the basis of her religious beliefs, but offered to counsel her in other areas. Jane Doe discontinued counseling, and her employer filed a complaint with Bruff's agency. Bruff again repeated her reason for refusing to work with Jane Doe and added that she would be willing to work with clients on any areas that did not conflict with her religious beliefs.

Eventually, Bruff was dismissed by her employer. Bruff appealed to an administrator of the medical center who asked her to clarify the situations in which she could not work with a client. She reiterated that she would "not be willing to counsel anyone on any subject that went against her religion" (Hermann & Herlihy, 2006). She was offered a transfer to a Christian counseling center, which she refused on the basis that the director of the center was too liberal. She was given another opportunity for a position in the agency, but lost to a more qualified candidate. Another position in the agency became available, but she did not apply, and eventually she was terminated. Bruff filed suit, and a jury trial in a federal court ruled in her favor. However, on appeal the court reversed the jury's findings and found that there was no violation of Bruff's rights. The court noted that the employer had made several attempts to accommodate Bruff but that Bruff remained inflexible.

### **Legal Aspects of the Case**

Hermann and Herlihy (2006) summarize some of the legal aspects of the Bruff case:

- The court held that the employer did make reasonable attempts to accommodate Bruff's religious beliefs.
- Bruff's inflexibility and unwillingness to work with anyone who has conflicting beliefs is not protected by the law.
- A counselor who refuses to work with homosexual clients can cause harm to them. The refusal to work on a homosexual client's relationship issues constitutes illegal discrimination.
- Counselors cannot use their religious beliefs to justify discrimination based on sexual orientation, and employers can terminate counselors who engage in this discrimination.

Hermann and Herlihy believe the Bruff case sets an important legal precedent. They assert that the appeals court decision is consistent with the Supreme Court's precedent interpreting employers' obligations to make reasonable accommodations for employees' religious beliefs. From a legal perspective, the court case clarifies that refusing to counsel homosexual clients on relationship matters can result in the loss of a therapist's job. A

homosexual client who sues a counselor for refusing to work with the client on issues related to sexual orientation is also likely to prevail in a malpractice suit as the counselor could be found in violation of the standard of care in the community. Hermann and Herlihy also note that the Bruff case raises an ethical issue that counselors often struggle with: When is it appropriate, and on what grounds, to refer a client?

### **Ethical Implications of the Case**

In discussing the implications of the Bruff case, Hermann and Herlihy (2006) emphasize the importance for counselors to develop nonjudgmental and accepting attitudes, regardless of their own value system. In short, counselors who discriminate based on sexual orientation are violating ethical standards. For counselors who are not able to reconcile their religious and moral values with certain values held by a client, Hermann and Herlihy make this recommendation:

To avoid finding themselves in situations like Bruff's these counselors might choose to work in settings that are compatible with their values and advertise these values to potential consumers of counseling services. If it is not possible to work in a compatible setting, these counselors have an ethical duty to avoid harm to clients by ensuring that counselors' informed consent procedures provide potential clients with adequate information about the counselors' values (p. 418).

### **Commentary**

We raise the following questions in examining the issues involved in this case:

- How do you deal with (or plan to deal with) issues that conflict with your religious beliefs?
- The court held that Bruff could be fired for refusing to counsel a lesbian client on relationship issues. Should she be held liable for any emotional harm she caused the client?
- Is it possible to provide clients with services consistent with an ethical standard of care if counselors conceal their religious beliefs that homosexuality is wrong?
- What distinction, if any, do you see between prejudice based on one's own private belief system as opposed to a conviction based on the teaching of one's religion?
- If you have sharply different moral beliefs from those of your client, is this equivalent to your not being competent to work effectively with this client? Are referrals justified because of major value conflicts?
- How do you determine that your referral will benefit or harm your client?
- Do counselors have an ethical obligation to reveal their religious beliefs prior to the onset of a professional relationship?
- If you fully disclose your limitations and own them as your problem, are you behaving ethically and legally?
- Should a client ever be surprised with the fact that you cannot continue working on problems that are problematic for you?
- To what degree protect you from an ethical or legal violation?
- Does informed consent document disclose your limitations to protect clients from harm?

The Bruff case illustrates both ethical and legal issues related to value imposition and conflict of values between counselor and client. In a counseling relationship, it is not the client's place to adjust to the therapist's values, yet this counselor maintained that she could not work with clients whose beliefs went against her religious views. Bruff

demonstrates a lack of understanding that counseling is not about her but about the client's needs and values.

Although we do not question Bruff's right to possess her own personal values, we do have concerns about the manner in which she dealt with the client involved in this case. At a minimum, Bruff should have informed her potential clients in writing (as part of the informed consent document) about her religious convictions and moral opposition pertaining to homosexuality, thereby providing potential clients with an opportunity to consider whether they wanted to work with a counselor holding these views.

We do not believe that all counselors can work effectively with all clients, but we would expect them to avoid using their personal value system as the criteria for how all clients should think and act. We also question whether it was appropriate for this counselor to have a position in a public counseling agency given her inexperience and ineffectiveness working with diverse client populations. Bruff showed inflexibility both in dealing with her clients and in her response to the agency's attempts to accommodate her values by transferring her to another position.