Supreme Court Denies Plea of Alcoholic Vets

The Supreme Court has ruled against two recovering alcoholics who sought an extension of eligibility for Veterans Administration education benefits on the grounds that their drinking prevented them from using them before the permissible time period of 10 years had elapsed (*Science*, 18 December 1987, p. 1647).

The Court ruled on 20 April that the VA's definition of "primary alcoholism" as being the result of "willful misconduct" does not violate the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicaps.

The VA law was amended in 1977 to allow extensions for individuals with physical or mental disabilities that are not the result of their own willful misconduct. According to VA thinking, alcoholics are not responsible for the medical problems drinking creates, but the behavioral concomitants of alcoholism are regarded as volitional. ("Secondary" alcoholism, resulting from an "acquired psychiatric disorder," is regarded as a legitimate disability.)

The 4–3 opinion, authored by Justice Byron R. White, did not presume to rule on whether alcoholism is a "disease," but contended that Congress evidently thought the VA law was compatible with the Rehabilitation Act. "If Congress had intended. . .that primary alcoholism not be deemed 'willful misconduct'. . .Congress most certainly would have said so," asserted the Court. It conceded that "primary alcoholism" may not always be "willful," but that the VA stance falls within the bounds of reason given the amount of controversy over the subject.

Justice Harry A. Blackmun was joined by Justices William J. Brennan, Jr., and Thurgood Marshall in dissenting from the opinion. Blackmun observed that "recent medical research indicates that the causes of primary alcoholism are varied and complex, only some of which conceivably could be attributed to a veteran's will." He wrote that the VA's blanket attribution of primary alcoholism to willful misconduct "appears to be a clear violation of the [Rehabilitation Act's] mandate requiring individualized assessment of each claimant's qualifications."

Medical and mental health groups have expressed dismay over the ruling, but do not believe it will have any implications beyond the VA (the "willful misconduct" concept is an old one that also pertains to disability benefits. It does not have any relevance to treatment compensation). Any further action is now up to Congress. Alan Cranston (D–RI), chairman of the Senate Committee on Veterans' Affairs, has introduced an education benefits bill that would prevent alcoholism from being labelled willful misconduct. The Senate has passed it four times, most recently in December. It was expected to be voted down again when it comes before the House in late April. ■ **C.H.**

Heterosexual AIDS: Setting the Odds

Norman Hearst and Stephen Hulley of the Center for AIDS Prevention Studies at the University of California in San Francisco recently performed a series of calculations that have probably been repeated less formally in a thousand cocktail lounges and convention halls across the land. In the 22 April issue of the *Journal of the American Medical Association*, the two researchers tabulated a heterosexual's chance of getting infected with the AIDS virus during one episode of penile vaginal intercourse. Not surprisingly, for most Americans the risk is extremely low. For instance, the chance of becoming infected with the human immunodeficiency virus (HIV) after one sexual encounter with someone who has both tested negative for HIV and who has no history of high-risk behavior is 1 in 500 million. If the same couple uses a condom, the risk plummets to 1 in 5 billion, say the epidemiologists. Even having sex with someone whose HIV status is unknown, but who does not belong to any high-risk group, yields a calculated risk of 1 in 5 million or 1 in 50 million per sexual episode, depending on whether or not a condom is used. (Hearst and Hulley define "high-risk groups" as including "anyone who within the last 10 years has engaged in male homosexual activity or intravenous drug use, has resided in Haiti or Central Africa, has a history of multiple transfusions, or is a hemophiliac." They also add anyone who has been a regular sexual partner to any of the above.)

On the other hand, having unprotected sex with someone who is HIV-positive exposes a person to a 1 in 500 chance of getting infected after one sexual encounter. After 500 such encounters, two out of three unprotected partners would become infected say the researchers.

What Hearst and Hulley conclude seems on the surface to be an observation of the obvious: that one should choose sexual partners with caution and should avoid having sex with people infected with HIV. But the two contend: "This advice is substantially different from the message that the public has so far received regarding AIDS prevention." The usual advice given by public health officials, say Hearst and Hulley, is to limit your number of partners, use condoms, and avoid anal intercourse. "None of this is as important as choosing a partner very carefully," says Hearst. For example, a prostitute may have hundreds of sexual partners, may fail to use condoms, and may engage in anal intercourse, but she still may be less likely to be infected on the job than by her boyfriend who is also an intravenous drug user, says Hearst.

The two epidemiologists believe that emphasizing their message would lead people to "more gradual courtships, to listen more carefully for clues about a potential partner's past, and to ask directly about any history of high-risk activities."

The problem with the approach advocated by Hearst and Hulley is that it is difficult to know if a potential partner has engaged in risky behavior. "The phrase 'to know' implies a certitude beyond reality," says Harvey Fineberg of the Harvard School of Public Health. "You know if you're using a condom or you're not. You don't know if you're picking the right partner."

Gerald Friedland of the Albert Einstein College of Medicine in the Bronx says that there is a problem with "ophthalmic virology." Says Friedland: "You can't always look into the eyes of your potential loved one and guess their HIV status."

June Osborn of the University of Michigan School of Public Health says, "We know that it is difficult to impossible to figure out the sexual history of many people." Osborn adds: "The longer I am involved with this epidemic, the more I believe that the least appreciated, least discussed, least understood aspect is bisexuality." Osborn believes that many women do not know that their partners are bisexual.

Hearst and Hulley made their risk calculations based on a review of the scientific literature. For prevalence of HIV infection among heterosexuals, they used data from the HIV testing of military recruits and blood donors, which some experts believe is artificially low, since both organizations make no secret of the fact that they do not want homosexuals or intravenous drug abusers. For the infectivity of each sexual encounter, the figure comes from the work of Nancy Padian of the University of California at Berkeley and her colleagues who followed female sexual partners of men infected with HIV. Padian cautions that the chance of transmitting virus during one sexual encounter is not necessarily 1 in 500. "Some couples seem to be more efficient at transmitting infection than others," says Padian. Some partners have not become infected after literally thousands of sexual contacts. Others were infected after less than ten. ■ **W.B.**