

Mary Bonauto redefined the word "marriage" and gave gay couples around the country hope that their time has come. BY CHARLES P. PIERCE

The Crusader



She could have been a pundit. By now, she could have been a star performer in the national political Kabuki that largely has replaced a national political dialogue. She could have exchanged hardballs with Chris Matthews, or factored in with the O'Reilly crowd, or walked the far frontiers of Scarborough Country. She could have been a star, Mary Bonauto could, if she just didn't react this way to the whole business, if she wasn't such an obvious heretic in the temple of buzz.

"I don't like to have my personal profile so high," she says, and on the desks of hundreds of television bookers, hundreds of Rolodexes cease to spin. "I mean, it's OK to be a private person, right? I think there are other people very capable of it and who would probably enjoy it more than I would. It's not something I enjoy as much as I enjoy being a lawyer."

It's not that the credentials aren't there. On November 18, 2003, on behalf of seven same-sex couples from around Massachusetts, Bonauto won a 4-3 ruling from the Supreme

Judicial Court, which held that, hereafter, the Commonwealth would define marriage as the exclusive "voluntary union of two persons as spouses." The sex of those two persons did not matter. The ruling ushered in a spring and summer in which the local news was replete with images of happy gay and lesbian couples and their happy children involved in weddings of happy banality all over Massachusetts. By last month, however, 11 states had passed amendments to their constitutions banning same-sex marriages, and the Massachusetts ruling was

being blamed – especially in Punditland – for helping President Bush get reelected. Mary Bonauto's triumph suddenly became a scapegoat.

"It's been a tough week," Bonauto admits on a sunny and cold day not long after the presidential election. "But I think it's turning around. As people started to focus on the actual numbers, it's gotten harder and harder to blame marriage for same-sex couples for [John] Kerry's defeat. I know that was the first analysis. [One thing] I took from the exit polls nationally as a silver lining was that 62 percent of Americans support significant relationship recognition for same-sex couples. That's just enormous, that we've come that far. There's a streak of fairness that runs through a wide swath of the American public."

And it's not that she's in any way timid. She's slight and sandy-haired, with blue eyes like spear points, a handshake that Lyndon Johnson would have been proud to wield, and an instinct for the battle that is no less ferocious for its deliberate lack of bombast.

"Nationally, we're at the beginning of a conversation about who are these gay and lesbian families and their children and how in fact they are being harmed by being denied these rights," she says. "What's going on in this country is that you have roughly a third who understand that gay people should not be denied marriage rights by the government, a third of the people who feel the exact opposite, and a third of the people who are struggling over whether it should be civil unions or marriage or anything at all."

Kris Mineau, the president of the Massachusetts Family Institute, disagrees. "From her standpoint, she represented a certain group of people who had an agenda, and she took it up to the right court," Mineau says. "We certainly don't think it's a just decision, and it disenfranchised the people of Massachusetts."

Bonauto, 43, lives in Maine with her partner, Jennifer Wriggins, a law professor, and their twin daughters. She grew up in Newburgh, up the Hudson River from New York, and graduated from Hamilton College in 1983 and Northeastern University Law School four years later, at which time she took a job at a firm in Maine. In 1990, she signed on as the first full-time gay-civil-rights lawyer at Gay & Lesbian Advocates & Defenders in Boston. At the time, Massachusetts had just become the second state to pass a gay-civil-rights law, and Bonauto's early work involved enforcing that law's provisions against, for example, employment discrimination and ensuring that police and prosecutors took anti-gay violence more seriously. During that time, Bonauto routinely turned down cases involving same-sex couples who wished to wed.

"We just did not believe that the time was right," she explains. "In 1990, we hadn't even

established widespread acceptance of gay people as individuals, let alone as families. We know it harms people to be denied marriage rights. I could regale you with stories, and it's heartbreaking."

Gradually, however, other events intervened. In 1993, the state Supreme Court in Hawaii ruled that failure to recognize same-sex couples amounted to "sex discrimination." Six years later, in a case on which Bonauto worked as co-counsel, the Vermont Supreme Court extended equal rights to same-sex couples in what ultimately would become known as civil unions. By April 2001, GLAD lawyers had chosen one couple in Boston, Hillary and Julie Goodridge, to be the lead plaintiffs in a case known as *Goodridge et al. v. Department of Public Health*. As she worked on the biggest case of her career, Bonauto was also pregnant with her twins.

(And for all the talk that it was the Massachusetts decision that energized the political opposition to same-sex marriage, that opposition had been building in the country ever since the Hawaii ruling. In 1996, Gary Bauer and other social conservatives pushed the issue to center stage during the run-up to that year's Iowa caucuses, and Democratic president Bill Clinton felt enough heat that he signed the Defense of Marriage Act that same year. By the time the Massachusetts case came to trial, 37 states had outlawed same-sex marriages.)

The case lost in Suffolk Superior Court. Bonauto and her clients appealed, and while an attempt to amend the state's constitution to prohibit same-sex marriage failed in July 2002, the lower court's ruling went to the Supreme Judicial Court for review. There, Bonauto based her argument on the expanded concept of equality and personal liberty that had been written into the Massachusetts Constitution nine years before the US Constitution was adopted. Typically, it is not an easy sound bite, but neither was the opinion of John Adams, the architect of the Massachusetts Constitution, when he wrote in 1818, "I wish it [the country] may do more and annul every narrow idea in religion, government, and commerce."

"They're living principles," Bonauto says. "As time goes on, what equality means, and even the people who deserve equality, those are evolving concepts."

"I'm not sure it's possible to dial down the rhetoric. But it is possible to introduce some new players: the people who actually are affected by these decisions. There's no shock value to it, but there's more understanding of who we're talking about." **BG**

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