



*The Monthly Newsletter  
of the First Friday  
Breakfast Club, Inc.*

*COVER: The Way It Works  
when Grassley Doesn't  
by Jonathan Wilson*

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▼ The next FFBC Meeting is 7:00am,  
Friday, June 3, 2016, at Hoyt  
Sherman Place, 15th & Woodland,  
Des Moines, IA

▼ RSVP by June 1 to  
[JonathanWilson@davisbrownlaw.com](mailto:JonathanWilson@davisbrownlaw.com),  
or phone 515-288-2500

# *First Friday News & Views*

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## **The Way It Works when Grassley Doesn't**

**By Jonathan Wilson**

We Americans have prided ourselves in our system of checks and balances between three branches of government: Legislative, Executive, and Judicial. The first has primary responsibility for enacting laws and the second has the primary responsibility for administering the laws. Because ours is a constitutional democracy, an independent judiciary is crucial to ensuring that the first two perform their duties within constitutional constraints. Most Americans who mastered fifth grade civics have an understanding of those basics and the triple cast of characters whose interactions are essential to the checks and balances that protect us from dictatorship and mob rule.

Most Americans also think of the judiciary at the federal level as embodied by the United States Supreme Court and, certainly, it is the final arbitrator in our federal judicial system. Most Americans are less likely to know that the federal judicial system functions through a dozen circuit courts of appeal plus the District of Columbia, all of which have final authority within their respective jurisdictions, subject only to a further appeal to the Supreme Court.

Those "junior" courts of appeal don't always agree with one another, especially on legal issues that are "close calls." The Supreme Court is crucial in resolving all such disagreements and thereby setting precedents that maintain a cohesive, stable system of judicial decisions and avoids American citizens in one judicial jurisdiction having rights different from those of citizens who happen to live in a different jurisdiction. That uniformity is important because the US Constitution says citizens are entitled to equal treatment under the law. For equal treatment under the law, the law among the various appellate jurisdictions must be uniform. Without that uniformity, citizens somewhere will inevitably be denied equal treatment.

Cases that are "close calls" often split the circuit courts and, not surprisingly, those cases are still "close calls" when they eventually reach the Supreme Court. When there is an uneven number of nine justices on the Supreme Court, those "close calls" will get resolved one way or another by a 5-to-4 decision. A win is a win, whether the decision is made unanimously or by a divided court, and American citizens get the equal treatment of the law that the Constitution says we're entitled to expect.

Most Americans don't understand what happens when the US Supreme Court lacks an odd number and "close call" cases receive a

*Continued on p. 2*

4-to-4 split among the justices. Three things happen in that situation. First, the lower court of appeals decision is affirmed, whatever it is, and contrary decisions in other appellate court decisions are also left standing. Second, the affirmance by an evenly divided Supreme Court has no precedential value; it doesn't resolve the split among the circuits at the time of the decision or going forward. It's expensive and time consuming to take a case all the way to the US Supreme Court. That expense and time will be required *again* eventually when the same legal question can be framed in a future case.

Third, those who brought the split-decision case were denied access to a properly functioning judicial system. More importantly, American citizens will be denied their constitutionally guaranteed right to equal treatment under the law until that subsequent case can eventually be brought. The lack of an odd number of Supreme Court justices, therefore, is not unlike shutting down the executive branch of government by a politically-motivated refusal to pay the bills and maintain the Full Faith and Credit of the United States.

It's embarrassing for Iowans that our Senator Grassley has morphed into such an extreme partisan instead of doing his job, giving President Obama's Supreme Court nominee a fair hearing, and making a recommendation for the full Senate vote. I can't imagine that he'd have done something so politically motivated and harmful to the United States earlier in his Congressional career. He should know better. He does know better. He should be acting better. He should be doing his job. Grassley's slogan has been Grassley Works. He should change it to Grassley Works Not, and to hell with the American people. He has shown himself to be part of the gridlock problem in Washington D.C.

"Each day into the upper air ascends a politician's prayer; give me the gift of swift retort, and keep the public's memory short." (authorship unknown) Usually, that philosophy works very well: a politician does something dumb and, by the time of the next election, the public has forgotten about it.

Not so with this. In this situation, Grassley's dumb behavior is on-going and will continue day-after-day right up to the election and beyond. It won't take long public memory to remember this one. When

Iowans go to the polls in November they will merely have to remember as long as the day before Election Day.

## Briefs & Shorts

Be sure to RSVP by June 1, for the June 3, 2016, meeting by calling 515-288-2500, or on line at: [JonathanWilson@DavisBrownLaw.com](mailto:JonathanWilson@DavisBrownLaw.com). Our scheduled speaker will be Joshua Barr, the newly appointed Executive Director of the Des Moines Civil and Human Rights Commission. This will also be the meeting attended by the current crop of FFBC scholarship recipients and their families. You will not want to miss this meeting!

Thanks to retired school teacher and FFBC member Rick Miller for the introduction of Tyler McCubbin at our meeting in May.



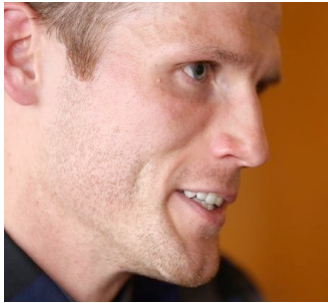
Be sure to peruse the front table for a book you might like to read. **Book donations are always welcome.** Thanks to Scott Kuknyo for helping coordinate the book exchange.

Consider a tax deductible contribution to the FFBC scholarship fund, or a tax exempt testamentary gift, or both. Contact Jonathan Wilson for details.

Save the dates: Our speaker on July 1 will be Iowa Congressman David Young. Our annual social gathering co-sponsored with PROS will be on **July 23** from 7:00 to 10:00 at the home of Allen VanderLinden and Michael Thompson. There is no charge for paid FFBC members.

Consider a tax deductible contribution to the FFBC scholarship fund, or a tax exempt testamentary gift, or both. Contact Jonathan Wilson for details.

**Also consider joining with 29 others in donating \$100 so that we can match the most recent scholarship fund contribution of David Hurd.** If 30 of us contribute \$100 apiece, we can match his contribution and award a full scholarship next year in his memory. Send your \$100 check to Jonathan Wilson or bring it to the next meeting with Hurd mentioned in the MEMO line.



## Actions Speaker Louder Than a Bishop's Words

By Bruce Carr

Our guest speaker on Friday morning, May 6, 2016, was Tyler McCubbin, who was dismissed in April 2015, from his position as a substitute teacher and coach at Dowling Catholic High School in West Des Moines, after officials learned that he was in a romantic relationship with another man.

Tyler gave us a passionate and moving account of his time at Dowling: how honored he felt to work at such an excellent school, how much he admired his students' focus and seriousness, how much he learned from his professional colleagues – and how little difference his sexual orientation made to any of his time there. "I never made it a mission to come out to any students or tell them about my sexuality, simply because it had nothing to do with what was being talked about in class," he said. "More importantly, my sexual orientation had nothing to do with the way that I taught, nor has my sexual orientation had anything to do with my ability to teach."

McCubbin developed such a rapport with the students and such a fine reputation as a teacher that in March of 2015, the school's principal offered Tyler the opportunity to apply for a full-time position at the school for the summer and the next academic year – with the indication that he was practically a shoo-in for the job. But before the application could be finished, administrators checked out his Facebook account, which told of his engagement. "Are you aware," he was soon asked, "of the Catholic Church's teachings and employment policies around open homosexuality?" – and the offer was withdrawn. Nor could he even finish out the year at Dowling, once the story of his treatment got to the press (not just local, either but also nationwide including the *Huffington Post* and the *New York Daily News*.) Dowling students staged a walkout, and a Facebook protest gathered 2,000 signatures in three days.

But to no avail: the Catholic Church, once it gets its ducks in a row, keep them in line. The Bishop of Des Moines, Richard Pates (who spoke to us on the first Friday of December 2014, praising his church's non-discrimination principles and supposed practices), announced that McCubbin was denied the job due to his openness about his sexuality. "The decision was not based on the sexual orientation of the individual, but it was based on the Facebook publicity that he has opened to the world," Pates said after the firing. And: "Catholic schools are an extension of the church and are committed to following the church's teachings and doctrine in employment matters," Dowling's superintendent, Luvern Gubbels, said in a statement. "Our contracts contain specific language that outline the expected code of conduct in accord with long accepted Church teaching."

McCubbin's own personal Christianity was not devalued by his mistreatment. "After the incident," he has written, "I have felt the warmth and love of so many individuals, many of them being from within the Dowling family. I would never have imagined the amount of support that was given during the first few days of April 2015. From teachers and students, to alumni and community members from the Des Moines area, I was given the confidence I needed during a difficult time. I am grateful for all of those who stood up against, and who are still standing up against, the injustice caused from this. Out of everyone, though, I applaud the students for standing up for themselves, and for who they are as a student body. They are the ones who reap the benefits of the education they receive, and that is what they saw in me as their teacher, that I was prepared to equip them with the best education possible."

Tyler McCubbin grew up the youngest of three children in Gowrie, Iowa, where he graduated from Prairie Valley High School. He studied history and secondary education at Luther College in Decorah, graduating in 2011. While taking more courses toward endorsement as a social sciences teacher he also trained as a runner (10K road race and steeplechase) and went on to compete at the 2014 Gay Games 9 in Cleveland, Ohio, where he won the gold medal in the 3000M Steeplechase. After returning from the competition, he received his teaching license, and substitute-taught in several Des Moines area schools including Dowling Catholic. After he left Dowling, he got his first full-time teaching job at Woodward Academy in Woodward, Iowa, where he teaches US History and Special Education at the high school level. This August he expects to move to Torreon, Mexico to teach at Colegio Americano de Torreon, a bilingual school where he'll be teaching 11th grade US History. Tyler McCubbin can be reached at [mcculty01@gmail.com](mailto:mcculty01@gmail.com).

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## P o m d e r T h i s

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Q: Paul, what is a good reason for pounding meat?

Paul Lynde: Loneliness!

Q: Do female frogs croak?

Paul Lynde: Yes, if you hold their little heads under the water long enough.

Q: If you're going to make a parachute jump, at least how high should you be.

Charley Weaver: Three days of steady drinking should do it.

Q: True or False, a pea can last as long as 5,000 years.

George Gobel: Boy, it sure seems that way sometimes.

Q: You've been having trouble going to sleep. Are you probably a man or a woman?

Don Knotts: That's what's been keeping me awake.

Q: According to **Cosmopolitan**, if you meet a stranger at a party and you think he is attractive, is it okay to come out and ask him if he's married? Rose Marie: No, wait until morning.





## MORE SAFE, CONVENIENT TRANSPORTATION OPTIONS

New legislation will make safe, convenient, affordable transportation options more available to Iowans, while also creating job opportunities. [House File 2414](#) sets consistent standards for Transportation Network Companies (TNCs) in Iowa.

TNCs, including Uber and Lyft, provide on-demand service. You use a ride-hailing app on your smartphone to find a driver to give you a ride for a price. After providing credit card information, you summon a ride by entering your current location and where you want to go. A driver heads your way in their own vehicle, monitored in real-time on your phone. When the driver arrives, you're taken to your destination. Your credit card is billed based on the time and distance of the trip, and you get an electronic receipt.

TNCs got their start in California just a few years ago, but already have hundreds of thousands of drivers, and operate in cities and countries across the globe. Why are they so popular?

- Flexibility – TNC drivers can work as much or as little as they want. Many do it in their spare time—on evenings and weekends, between classes or while the kids are at soccer practice.
- Convenience – Many passengers say that catching a ride from a TNC is quick, easy and affordable.
- Fills a need - TNCs can be helpful to those who don't have access to other transportation in communities of all sizes, and is another tool for cutting down on drunk driving.
- Job creation –TNC drivers get more value out of their car by using it to make money, rather than letting it sit parked.

While TNCs already do business in Iowa, we have no statewide standards for how they operate. [HF 2414](#), as passed by the Senate, addresses key issues that have emerged nationwide. The bill protects drivers, passengers, the public and other businesses by:

- Leveling the playing field for taxicabs
- Establishing oversight through the Department of Transportation
- Laying out insurance and financial responsibility requirements
- Setting driver qualifications
- Requiring a zero-tolerance drug and alcohol policy
- Requiring criminal and driving background checks
- Setting standards for vehicle safety
- Setting standards for how TNCs interact with passengers and protect their privacy

The bill was previously approved by the House in a more limited form. It now returns to the House for its consideration of Senate changes.

### Additional information

*This is a legislative update from Senator Matt McCoy, representing the west part of Des Moines, portions of West Des Moines and northwest Warren County. For newsletters, photos and further information, go to [www.senate.iowa.gov/senator/mccoy](http://www.senate.iowa.gov/senator/mccoy) or [www.matt-mccoy.com](http://www.matt-mccoy.com). Follow Senator McCoy on Facebook at [www.facebook.com/senatormccoy](http://www.facebook.com/senatormccoy).*

*To contact Senator McCoy during the week, call the Senate Switchboard at 515-281-3371. Otherwise he can be reached at home at 515-274-0561. E-mail him at [matt.mccoy@legis.iowa.gov](mailto:matt.mccoy@legis.iowa.gov).*

*Senator McCoy is an Assistant Senate Majority Leader, chair of the Transportation & Infrastructure Budget Subcommittee, and vice-chair of the Commerce Committee. He also serves on the Appropriations, State Government, Transportation and Ways & Means committees.*

## Coming Out, Patience, and Progress

Ken Hanson

Like many others of my generation, growing up in small-town Iowa, I thought I was the only one. I knew I was different, but couldn't identify as gay since I had no role models. The only media representation was the character Billy Crystal played on the TV show "Soap" (entirely too flamboyant for me to identify with). Going through high school at the height of the AIDS crisis, the thought of sex with a man was enticing but also scary as hell. I was a shy kid. So...as always, I did what was expected of me. I got good grades, went to college, got a decent job, got married, and had children. How typical, living the American dream. But I was always hiding my secret that I was really gay, thinking if I tried hard enough I could be straight.

Then the Internet came along and I discovered that I was not alone. I now had access to information allowing me to explore what I'd always wondered about, and found out that there were a lot of married men like me. This was before the days of Grindr, Scruff and the like, but there was Gay.com which had chat rooms so I could converse with others like me.

I also started to see a therapist, unbeknownst to my wife, to figure out how to manage coming out. Therapy was short lived. My wife discovered an email from another married man, and the cat was out of the bag. My therapist wondered if I had subconsciously left the email up on the computer...I'll never know.

I had to come out to my parents and family. I was scared to death. That went surprisingly well. My parents even told all of my siblings for me. One of my sisters-in-law even said, "Is that all? Gosh I thought someone was dying or something." Now I got to discover the ugliness of divorce. Even though my wife and I put the kids first in all of our decisions, it was not a pleasant experience. I was suddenly poor, looking for a place to live, and feeling very alone, wondering if I had done irreparable harm to my kids. **Patience.**

The gays saved me. Some friends from the chat rooms let me stay in their guest room and helped me soon find an apartment with a wonderful gay guy who became a life-long friend. I joined the Gay Men's Chorus, attended FFBC, and discovered the gay bars of Des Moines. **Progress.**

While I continued to wonder if I had messed up my kids' lives, men from FFBC and the chorus who had been through similar struggles assured me that all things would work out over time. I wasn't sure I was patient enough to find out. I dated (a lot) and thought a couple of times I had found love, but those didn't work out for reasons, that in hindsight, were good for me. **Patience.**

Then I met Wade. He was friendly, smart, down-to-earth, had beautiful blue eyes and dimples to die for. More importantly, he made me laugh every day. But he wasn't out. I told him that I wasn't going back in the closet for anyone. Within a couple weeks, he had come out to his family. We've been together now fourteen years, seven legally married, and I've never been happier. **Progress.**

It hasn't all been easy. Some of my kids and some of my relatives didn't come to our wedding. Again, friends from FFBC and the chorus were reassuring by reminding me that it had taken me over thirty years to come out, so I should give others some time to adjust as well. **Patience.**

My older children didn't always want their friends to know they had a gay dad. They saw me on weekends but didn't ever bring friends along. I didn't pressure them since I feared they may get teased in school. **Patience.**

My youngest is the exception, and I'm sure that the fact that she is five years younger has something to do with it. While my oldest daughter and my middle son only shared the "gay dad" thing with select friends, my youngest has

brought friends to spend the weekend with Wade and me on many occasions. In fact, when I asked her if she ever got teased because she had a gay dad, she was rather incredulous. She said, "Dad, get over it; there are gay kids in school who are out and no one cares." There are a couple of gay male students who are in the band's color guard twirling flags with the girls. One has even giving my daughter make-up tips since he occasionally does drag. This is at a school in southern Iowa. **Progress.**

Hopefully by sharing my story, I can help others during their coming out process not to get discouraged. Each of us coming out leads to progress, even if we struggle to be patient enough to experience it.

### For Your Edification and Entertainment during Pride

By Douglas Dickinson

Pride Weekend is quickly approaching! One of your options to enjoy during this time of celebration is, "A GAY TRAVELER'S JOURNEY THROUGH ALTERNATE REALITIES." This hour long monologue by FFBC member Douglas Dickinson shares his attempts to change his sexual orientation, but ultimately coming to love and accept himself as a Gay man. The presentation will be performed at the Stoner Theater, Saturday, June 11th at 7:30PM. The cost is \$10 and tickets can be obtained through the Civic Center Box Office or Ticketmaster. Hope to see you there! Have a fabulous Pride Weekend!!!

# FFBC

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News & Views*

*Des Moines, Iowa*

*June, 2016*

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MADE ON A  MAC

## MY M.O. (MONTHLY OBSERVATIONS) HOW DID SHE STAY SO THIN WITH ALL THAT PASTA IN HER DIET? Book Review by Steve Person

On January 20, 1993, a light went out of this world never to be rekindled. On that day Audrey Hepburn slipped into the realm of the noble and undocumented world of death. Colon cancer claimed her, a disease likely attributable to her ceaseless habit of cigarette smoking. Perhaps other causes lurked, but who knows?

Audrey Hepburn married twice, first to actor Mel Ferrer in 1954 and second to Dr. Andrea Dotti in 1969. Both marriages took place in Switzerland, the land she considered home. Although born in Brussels, Belgium, she was English because of her father's British citizenship. Her mother was a Dutch baroness, and Audrey was too although she never made use of the title.

Audrey bore two children, both boys, one fathered by Ferrer and the other by Dotti. Sean, the older boy, was born in 1960, and Lucca, the younger son, arrived in 1971. Both boys adored their mother, but both grew up in very different circumstances.

After Audrey's death, both her children wrote books about their mother. Sean's book, entitled **Audrey Hepburn, An Elegant Spirit**, was published in 2003. It is a tribute to a mother known for her fame as a film star, a wife, and a mother. Lucca so far has published two books about his mother: **Audrey in Rome** (2012), and his latest, **Audrey at Home: Memories of My Mother's Kitchen** (2015).

This latest book is a chronicle of recipes and anecdotes that Lucca Dotti remembered from his childhood up to his mother's untimely death. Both boys have done an admirable job of celebrating their famous mother, yet revealing to the public so much of her personal side without resorting to sloppy sentimentality. As Lucca says in the introduction to the **At Home** book, "...in the kitchen, as in life, my mother gradually freed herself from everything that was superfluous. To keep only what truly mattered to her."

Lucca unapologetically states that his mother was addicted to pasta. "She would eat it at home and request it at restaurants." Audrey's recipe for Spaghetti al Pomodoro includes three pounds of vine-ripened tomatoes, onion, celery, fresh basil leaves, olive oil, sugar, salt, black pepper, and a pound of spaghetti. The recipe says it will serve four people. That's a lot of pasta!

In the chapter, "Mac and Cheese: My Fair Audrey," Lucca reveals his mother's recipe (and his memories of inhaling macaroni and cheese), for this once-rare culinary delight. While the recipe is very similar to the one my mother passed on to me, it differs in one great ingredient: the cheese. For me, mac and cheese must be made with Velveeta (OK, I know Velveeta isn't really cheese, but I like it anyway). Audrey's recipe calls for grated cheddar. I'd be willing to try it that way. I've mellowed somewhat in my old age.

It's a delightful book, both memoir and cookbook. Try it. You'll like it!