

Core of Gay Marriage Law Unconstitutional, Federal Court Rules

The U.S. Court of Appeals in Boston on Thursday declared the Defense of Marriage Act, or DOMA, unconstitutional. The court ruled that it unfairly denies equal benefits to same-sex couples that are legally married.

“To conclude, many Americans believe that marriage is the union of a man and a woman, and most Americans live in states where that is the law today,” wrote Judge Michael Boudin, who was appointed by President George H. W. Bush.

“One virtue of federalism is that it permits this diversity of governance based on local choice, but this applies as well to the states that have chosen to legalize same-sex marriage. Under current Supreme Court authority, Congress’ denial of federal benefits to same-sex couples lawfully married in Massachusetts has not been adequately supported by any permissible federal interest.”

Alliance Defense Fund Legal Counsel Dale Schowengerdt said society should protect and strengthen marriage, not undermine it. As he sees it, DOMA provides that type of protection, and he trusts the U.S. Supreme Court will reverse the 1st Circuit’s erroneous decision.

“In allowing one state to hold the federal government, and potentially other states, hostage to redefine marriage, the 1st Circuit attempts a bridge too far,” Schowengerdt said. “Under this rationale, if just one state decided to accept polygamy, the federal government and perhaps other states would be forced to accept it, too.”

Schowengerdt went on to say that federal government had the

authority to step in against polygamy at one time in our nation's history, and it has the authority to step in against this attempt at marriage redefinition as well.

"Even as President Obama announced his support for changing marriage into something else, he recognized that it was up to the people of each state to decide, just as voters in 31 states have already done in overwhelmingly protecting marriage as the union of one man and one woman," Schowengerdt said.

"The First Circuit's support of this same principle suggests that it is constitutional for California's voters to enact Proposition 8—and that all of the other state constitutional amendments and statutes defining marriage as a man and a woman are constitutional as well."