

Gay Couples Set Sights on Overturning Texas Marriage Ban

Two gay couples in Texas will ask a federal court this week to overturn an amendment to the state's constitution barring **same-sex marriage** that has been staunchly supported by prominent Republican party leaders.

Even though 17 states and the District of Columbia now allow same-sex marriages, the activist group Freedom to Marry says this will be the first attempt to win recognition for same-sex marriage in the deep South, where every state has a constitutional amendment or law banning the practice.

The suit in Texas, aimed at nullifying the 2005 amendment, goes to court in San Antonio on Wednesday. It was filed by a high-powered law firm on behalf of two men in the Dallas area and two women in Austin.

Texas Attorney General Greg Abbott, the front-runner in the race this year for governor, has said the state has the right to establish its own marriage policies and will defend the amendment that passed with about 70 percent of voter support.

Lawyers for the couples plan to argue that the amendment runs counter to the U.S. Constitution and is a "badge of inferiority."

"It is undeniable that the arc of social justice points in the direction of marriage equality," said lead counsel for the plaintiffs, Neel Lane, who is from the Akin Gump law firm.

Lane says because marriage carries with it numerous legal benefits, to deny those benefits to gays and lesbians violates the Equal Protection Clause of the Fourteenth Amendment to the

U.S. Constitution.

Abbott, in his response filed with the court, argues that gays and lesbians are not victims of discrimination under existing law.

"The U.S. Supreme Court was clear that states have independent authority to establish their marriage laws. Texans adopted a constitutional amendment defining marriage. We will defend that amendment," Abbott's office said in a statement.

Rick Perry, the current governor and former Republican candidate for president, has said he "believes in the sanctity of marriage between a man and a woman, regarding it as the linchpin of the family unit and, thus, society as a whole."

The suit was filed on behalf of Cleopatra De Leon and Nicole Dimetman, two women who live in Austin and were married in Massachusetts, and Victor Holmes and Mark Phariss, two men who were denied a marriage license when they applied last year.

Dimetman and her partner are both military veterans and were legally married in Massachusetts in 2001. They were told they could not jointly adopt a child in Texas because the state does not recognize the legality of their marriage.

They have been encouraged by what has been happening on the federal level with the Supreme Court in June striking down part of a 1996 federal law, the **Defense of Marriage Act**, which barred the federal government from recognizing same-sex marriages.

U.S. Attorney General Eric Holder on Saturday announced widespread changes within the Justice Department to benefit same-sex married couples, such as recognizing a legal right for them not to testify against each other in civil and criminal cases.

U.S. District Judge Orlando Garcia, appointed by Democratic

President Bill Clinton, will hear the case.

The case is Cleopatra De Leon, Nicole Dimetman, Victor Holmes and Mark Phariss versus Rick Perry, Greg Abbott, Gerard Rickhoff and David Lakey (all in their official capacities).

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