

Group Takes D.C. Marriage Battle to Supreme Court

A faith-based coalition is taking its push for a vote on gay marriage in Washington, D.C., to the Supreme Court.

The Alliance Defense Fund (ADF) filed a cert petition Tuesday on behalf of members of the Stand4Marriage D.C. Coalition asking the Supreme Court to hear its case against the district's Board of Elections and Ethics.

The petition appeals a July decision by the District of Columbia Court of Appeals, which ruled 5-4 that the city's Elections Board acted appropriately when it decided that a referendum on the definition of marriage would violate a human rights law barring initiatives that would authorize discrimination.

The district legalized same-sex marriage in December, and the law went into effect in March.

"We believe marriage is too important to leave to the elite few who believe they know what is best for us," said Bishop Harry Jackson, chairman of Stand4Marriage D.C. and a petitioner in the case. "We believe that the right to vote is the fundamental right of all Americans."

ADF attorney Austin R. Nimocks said the D.C. Charter, which serves as a constitution for the district, guarantees citizens the right to initiate and vote on legislation, except for measures appropriating funds and other initiatives beyond the council's scope.

"The decision from the D.C. Court of Appeals means that those living in our nation's capitol are being denied the right to vote, and we hope the Supreme Court will restore this guaranteed right in the district," Nimocks said. "The four

dissenting judges were correct that the D.C. Council exceeded its authority when it imposed an unwarranted limitation on the citizens' right to vote."

Jackson led a press conference Wednesday afternoon with fellow petitioner Robert L. King, a commissioner with the district's Advisory Neighborhood Commission. Other participants included Ken Blackwell of the Family Research Council; Brian Brown, president of the National Organization for Marriage; and Chuck Donovan, senior research fellow at the Heritage Foundation, a conservative think tank.

The lawsuits stem from a proposed ballot initiative filed in September 2009 that would have allowed voters to accept or reject the statement: only "marriage between a man and a woman is valid or recognized in the District of Columbia." In November 2009, the D.C. Board of Elections rejected the initiative, saying it violated the human rights code.

All 31 states that have put the issue to a vote have upheld traditional marriage.

Recent polls show support for same-sex marriage has risen. The Public Religion Research Institute (PRRI) American Values Survey, released Wednesday, found that 37 percent of Americans support gay marriage, up from 29 percent in 2008. A Pew Forum on Religion & Public Life poll released last week found that 42 percent of Americans favored gay marriage, while 48 percent opposed it.

Both studies found evangelicals largely opposed to same-sex unions. The PRRI poll found that 58 percent of white evangelicals and 52 percent of black evangelicals opposed such same-sex marriages. The Pew study found that 74 percent of white evangelical Protestants and 62 percent of black Protestants oppose gay marriage.

Also on Tuesday, the Obama administration decided to appeal a U.S. district judge's July ruling that portions of the federal

Defense of Marriage Act (DOMA) are unconstitutional. DOMA defines marriage as the union of one man and one woman and prevents states from having to recognize gay marriages performed elsewhere.

The Obama administration filed a notice of appeal Tuesday with the U.S. District Court for Massachusetts in support of DOMA. Although the president opposes the law, the administration traditionally defends federal laws when they are challenged in court, Justice Department spokeswoman Tracy Schmalzer said.

"As a policy matter, the president has made clear that he believes DOMA is discriminatory and should be repealed," Schmalzer said. "The Department of Justice has a longstanding practice of defending federal statutes when they are challenged in court, including by appealing adverse decisions of lower courts."

The Obama administration has not announced whether it will appeal a federal judge's injunction Tuesday stopping enforcement of the "don't ask, don't tell" policy, which banned open homosexuality in the military.

U.S. District Judge Virginia Phillips declared the ban unconstitutional in September. Legislation to overturn "don't ask, don't tell" passed in the House earlier this year but failed in the Senate last month.

Update: The Obama administration has said it will appeal the don't ask, don't tell ruling, but the Pentagon will comply with the injunction in the meantime.

President Obama has repeatedly expressed support for repealing don't ask, don't tell, but said he wants Congress to overturn the ban. At a town hall sponsored by MTV, CMT and BET Thursday, Obama said the policy "will end, and it will end on my watch."

Since the injunction, several Christian groups have repeated

calls for the president and Congress to uphold don't ask, don't tell. Family Research Council President Tony Perkins on Tuesday accused Phillips of "playing politics with our national defense" to promote a liberal social agenda.