

Judge Strikes Down Utah's Gay Marriage Ban

A federal judge struck down Utah's ban on same-sex marriage as unconstitutional on Friday, handing a major victory to **gay rights** activists in a conservative state where the Mormon church wields considerable influence.

U.S. District Judge Robert Shelby, ruling in a lawsuit brought by three gay couples, found that an amendment to the Utah Constitution defining marriage as exclusively between a man and a woman violated the rights of gay couples to due process and equal protection under the U.S. Constitution.

The 53-page decision adds to growing momentum toward legalizing **gay marriage** across the United States.

"The state's current laws deny its gay and lesbian citizens their fundamental right to marry and, in doing so, demean the dignity of these same sex couples for no rational reason," Shelby said, barring Utah from enforcing its ban.

Gay couples rushed to the altar. Some were dressed informally and one woman arrived in hospital scrubs. There was a festive atmosphere in Salt Lake City's county government building for a string of impromptu weddings—including that of a state senator to his longtime partner.

But a spokesman for the state's Attorney General's office said lawyers would seek an emergency stay of the judge's order while it appealed to a higher court. The office filed a notice of appeal with the U.S. Tenth Circuit Court of Appeals in Denver.

"I am very disappointed an activist federal judge is attempting to override the will of the people of Utah," said Utah Gov. Gary Herbert.

The ruling, if it is not stayed by a higher court, would make Utah the 18th U.S. state to allow same-sex nuptials.

“It feels unreal,” plaintiff Moudi Sbeity, who sued along with partner Derek Kitchen, told the *Salt Lake Tribune* newspaper after Shelby’s ruling.

On Thursday, the New Mexico Supreme Court ruled to allow **same-sex marriage** across the state. Last month, Hawaii and Illinois governors signed bills to legalize same-sex weddings.

Lawmakers in Utah, home to the Church of Jesus Christ of Latter-Day Saints, passed laws to prohibit gay marriage, and voters in 2004 approved an amendment to the state constitution restricting marriage to the union between a man and a woman.

The **Mormon church**, which has softened its stance on homosexuality in recent years, was not a party to the lawsuit but wields considerable influence in the state.

“The Church has been consistent in its support of **traditional marriage** while teaching that all people should be treated with respect,” a church spokesman said.

“We continue to believe that voters in Utah did the right thing by providing clear direction in the state constitution that marriage should be between a man and a woman and we are hopeful that this view will be validated by a higher court.”

Rush to Wed

In the Utah ruling, Shelby rejected arguments by the state that it had the right to define marriage free of interference from the federal government. He said state regulations must still comply with the U.S. Constitution.

The three couples who brought the case all live in Utah. One couple, Karen Archer and Kate Call, were married in Iowa, which allows gay marriage, but want their union recognized in Utah. The other two couples were denied marriage licenses by

the Salt Lake County Clerk's Office, according to court papers.

Couple J. Seth Anderson, 31, and Michael Ferguson, 32, said they were the first to wed, after getting a text message from an attorney friend about the ruling and rushing to the county government building in their jeans and sweatshirts.

Salt Lake City Mayor Ralph Becker, meanwhile, officiated at the wedding of State Senator Jim Dabakis to his art dealer partner of 27 years, Stephen Justesen. By the end of the day, Becker said he had officiated at 33 ceremonies.

In Salt Lake County, 124 marriage licenses were issued—a possible record—although a dozen may have gone to heterosexual couples. There was also a rush in other counties, but in Utah county, clerks had said they first wanted to evaluate the federal court ruling, a gay advocacy group said.

Davis County and Washington County attorneys have told clerks' offices to issue marriage licenses if requested.

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