

New Mexico High Court to Hear Case for Same-Sex Marriage Statewide

The New Mexico Supreme Court agreed on Friday to decide once and for all whether same-sex matrimony should be legal statewide after several counties began issuing marriage licenses to gay and lesbian couples, prompting a legal challenge.

Stepping into an intensifying debate over gay marriage in a state where same-sex unions are neither expressly recognized nor prohibited by law, the New Mexico court set a hearing for Oct. 23 to consider a request from all 33 counties statewide to settle the matter.

All five of the state Supreme Court justices concurred in ordering a review of the case without comment.

The justices had previously declined to intervene on the issue, saying they would leave it to the lower courts to rule on lawsuits being filed in different counties.

At least two court decisions since August have tipped the scales in favor of same-sex unions in New Mexico, which gay rights advocates hope will join 13 other U.S. states and the District of Columbia in recognizing gay marriages outright.

In August, a district judge in Santa Fe, the state capital, ruled that New Mexico's constitution did not bar same-sex matrimony and ordered the county clerk there to either issue marriage licenses to gay couples or appear in court to explain why she could not.

Days later, a district judge in Bernalillo County, which includes Albuquerque, ruled that denying gay couples the right

to marry violates state constitutional provisions guaranteeing equal protection under the law and barring gender-based discrimination. His ruling also applied to Santa Fe.

The 33 county clerks, joined by the New Mexico Association of Counties, subsequently petitioned the high court to weigh in on the Santa Fe and Bernalillo case and decide whether the judge's ruling should extend statewide.

Separately, a number of Republican state lawmakers filed a lawsuit challenging a Dona Ana County clerk who began voluntarily handing out marriage licenses to gay couples last month.

As of Friday, a total of eight New Mexico counties have begun issuing marriage licenses to same-sex couples, some on their own and some under court order, according to Chris Stoll, senior staff attorney for the National Center for Lesbian Rights.

At least 1,000 gay and lesbian couples have applied for marriage licenses across New Mexico in recent weeks, said Micah McCoy, a spokesman for the state chapter of the American Civil Liberties Union, which, together with the National Center for Lesbian Rights, represents the plaintiffs in the case in Bernalillo and Santa Fe counties.

He said 250 applications from gay couples had been made in Dona Ana County alone.

Both sides in the debate welcomed the intervention of the state Supreme Court.

"I think it's excellent," said state Representative Anna Crook, a Republican from the town of Clovis who is one of 29 state lawmakers who have joined the lawsuit in Dona Ana County. "It's been absolute chaos. We need to have a ruling one way or the other instead of, 'My county can, yours can't.'"

Stoll, of the National Center for Lesbian Rights, said: “We have couples that have received marriage licenses and have gotten married, and they deserve the certainty of knowing their marriage is secure and will be respected by the state.”

Even if gay marriage supporters prevail, Republican lawmakers could eventually be joined by conservative Democrats in putting a measure on the ballot to restrict marriage to heterosexual couples. Democrats hold a majority in both houses of the New Mexico legislature.

(Writing and additional reporting by Steve Gorman; Editing by Peter Cooney and Robin Pomeroy)

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