

Unconstitutional: Texas Ban on Same-Sex Marriage Under Fire

The Texas state ban on **same-sex marriage** was ruled unconstitutional on Wednesday by a U.S. federal judge, who declared a stay on the decision, meaning that the ban stays in effect.

U.S. District Judge Orlando Garcia said the law excludes the two couples who brought the suit from the constitutional guarantees of equal protection and due process.

“These Texas laws deny Plaintiffs access to the institution of marriage and its numerous rights, privileges, and responsibilities for the sole reason that Plaintiffs wish to be married to a person of the same sex,” Garcia wrote.

The matter has been deferred to Fifth Circuit Court of Appeals, the judge said.

The suit brought on behalf of the couples was aimed at winning recognition for **same-sex marriage** in the deep South, where every state has a constitutional amendment or law that establishes legal marriage as only being between one man and one woman.

It’s a “historic day,” said Neel Lane, lead attorney for the gay couples.

“There have been 19 decisions since last summer, and all of the rulings have come down in favor of plaintiffs challenging same-sex restrictions as unconstitutional,” he said.

“The direction has been very clear. The courts have found that restrictions based on sexual orientation should be stricken down as unconstitutional.”

Texas voters overwhelmingly approved a constitutional amendment that banned same-sex marriage in 2005.

Texas Attorney General Greg Abbott, the Republican front-runner in the gubernatorial race this year and a defendant in the suit, has argued the state has the right to establish its own marriage policies.

He said his office is preparing for the appeal.

"The U.S. Supreme Court has ruled over and over again that States have the authority to define and regulate marriage," he said in a statement.

"If the Fifth Circuit honors those precedents, then today's decision should be overturned and the Texas Constitution will be upheld."

Texas Governor Rick Perry, a supporter of the same-sex marriage ban who is also seen as a possible presidential candidate for Republicans, said the courts should not interfere with the rights of states.

"The 10th Amendment guarantees Texas voters the freedom to make these decisions, and this is yet another attempt to achieve via the courts what couldn't be achieved at the ballot box," he said in a statement.

Support for gay marriage has surged in the United States in the decade since it first became legal in Massachusetts, with just over half of Americans now supporting the idea, according to a survey released on Wednesday.

In all, 17 states plus the District of Columbia recognize gay marriage, including eight states where it became legal in 2013.

The trend has gathered steam since the U.S. Supreme Court in June ruled that legally married same-sex couples nationwide are eligible for federal benefits, striking down a key part of

the 1996 federal Defense of Marriage Act.

The suit in Texas was filed on behalf of Austin residents Cleopatra De Leon and Nicole Dimetman, who were married in Massachusetts, and Victor Holmes and Mark Phariss, 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.

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