

Will Supreme Court be Forced to Decide Gay Marriage Issue?

The long and divisive national debate over same-sex marriage finally may be headed to the U.S. Supreme Court after an appellate court order this week created conflicting rulings in different circuits, which only the high court can resolve.

A divided panel of the Sixth U.S. Circuit Court of Appeals on Wednesday allowed four states to prohibit same-sex unions—a decision that could force the U.S. Supreme Court to take up the issue. In a 2-1 ruling, the appeals court reversed lower court rulings in Ohio, Michigan, Tennessee and Kentucky that had struck down bans on same-sex marriage.

The decision conflicts with four other appeals-court decisions over the past several months that have found such laws and amendments unconstitutional. *USA Today* said in its report Thursday that the conflict “virtually guarantees Supreme Court review.”

In fact, CNN reported that the ACLU has already decided to appeal the Sixth court ruling to the Supreme Court.

“When the courts do not let the people resolve new social issues like this one, they perpetuate the idea that the heroes in these change events are judges and lawyers,” Judge Jeffrey Sutton wrote in the majority ruling for the Sixth Circuit. “Better in this instance, we think, to allow change through the customary political processes, in which the people, gay and straight alike, become the heroes of their own stories by meeting each other not as adversaries in a court system but as fellow citizens seeking to resolve a new social issue in a fair-minded way.”

The Sixth Circuit pointed to the Supreme Court decision in *Windsor* that declared unconstitutional part of the Defense of

Marriage Act but indicated states should define marriage.

After enduring a prolonged losing streak, opponents of same-sex marriage were elated with the appeals court ruling.

"This decision gives greater certainty that this matter will ultimately return to the Supreme Court, as we have said all along that it must," said Brian Brown, president of the National Organization for Marriage. "We think that the constitutionality of states' amendments on marriage will there be upheld."

Byron Babione, senior counsel at the Alliance Defending Freedom, said the court's ruling demonstrates that "the Constitution does not demand that one irreversible view of marriage be judicially imposed on everyone."

Proponents of same-sex marriage saw Sutton's opinion as an appeal to Supreme Court Justice Anthony Kennedy, who has authored the last three major rulings advancing the cause of gay rights. Kennedy has defended voters' right to pass constitutional amendments—but he struck down the federal same-sex marriage ban as an affront to the constitutional rights of gays and lesbians, according to the *USA Today* report.

Lawyers working on gay marriage cases from coast to coast wasted no time preparing for a Supreme Court showdown.

"We will be filing for Supreme Court review right away and hope that through this deeply disappointing ruling, we will be able to bring a uniform rule of equality to the entire country," said Chase Strangio, staff attorney for the American Civil Liberties Union.

The Supreme Court last month refused to reconsider the Utah, Oklahoma, Virginia, Indiana and Wisconsin cases, at least in part because there was no conflict among the federal appeals courts. But Justice Ruth Bader Ginsburg told a Minneapolis audience that a ruling against same-sex marriage from the 6th

Circuit panel would make Supreme Court consideration more urgent.