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## Wilton couple takes battle over same-sex marriage to State Supreme Court

By Brian Shea



**Jeffrey Busch, left, Elijah and Stephen Davis of DeForest Road are battling in State Supreme Court for the right to marry. —Joanna Simpson photo**

Jeffrey Busch and Stephen Davis of DeForest Road went to the Connecticut Supreme Court on Monday with hopes of being granted the right to call their 17-year relationship a marriage.

"If they had marriage for some people and a marriage equivalency diploma for one group of people, one religion or something, no one would think that was fair. We've been together 17 years, and it's time," said Mr. Busch in an interview on Tuesday.

Mr. Busch and Mr. Davis moved to Wilton in 1997, and in 2004 they sought a marriage license from the town clerk's office in Madison. The office denied the marriage license on the advice of state Attorney General Richard Blumenthal. The couple, along with seven other gay and lesbian couples, sued the state in August 2004.

Mr. Busch and Mr. Davis have a civil union, but Mr. Busch, who grew up in Wilton, said he and Mr. Davis wanted a marriage for the same reason all people want to be married: love.

"We're humiliated by the idea of a civil union that declares a second class love. Having civil unions serves to officially stigmatize as having something with less status," said Mr. Busch.

Mr. Busch said he worries about their four-and-a-half-year-old son, Elijah, and what they will tell him when he becomes old enough to ask about his dads' relationship.

"I have no explanation to him for why we can't marry other than the state deems us to be less legitimate than a family," said Mr. Busch.

The civil union that Mr. Busch and Mr. Davis have also doesn't permit the two to have any privacy over their sexual orientation. Specifically, Mr. Busch said he has to tell perfect strangers about his sexual orientation.

He cited a recent trip to the doctor's office. Mr. Busch had to take Elijah to the doctor because he had injured his face, and the doctor referred Elijah to a plastic surgeon. Mr. Busch had to check a box for a civil union for his marital status on the form for admitting Elijah.

"As I did that, I realized I'm disclosing my sexual orientation to a doctor I've never met who is about to perform surgery on my son's face, and I asked myself, how is this relevant?" Mr. Busch said.

Bennett Klein, attorney for the eight couples suing for the right to be married, said during oral arguments before the court that the state's marriage law is unconstitutional because it applies only to heterosexual couples and denies homosexual couples the benefits of marriage.

"What is denied to these families is something that goes to the heart of equal protection, which is the right to be part of the fabric of society when they are just the same as other couples and other families," said Mr. Klein.

Jane Rosenberg, assistant attorney general representing the Connecticut Department of Public Health, which oversees marriage licenses, disagreed.

"[The question] is really, is the legislature constitutionally required to use the word marriage when it's referring to the package of rights and benefits it has given to same-sex couples? And the answer is clearly no," said Ms. Rosenberg.

But Mr. Busch said not being able to call his relationship with Mr. Davis a marriage is wrong because it unfairly separates them from married heterosexual couples.

"I don't know any other category of adults that's been separated quite this way. Separate has never been equal," said Mr. Busch.

He said that while he and Mr. Davis were grateful for the benefits a civil union affords their family, when they got it it was not a cause for celebration like a marriage ceremony would be.

"I can't even tell you what day or what month we did this [the civil union] because it's a memory that is not a happy one for us," said Mr. Busch.

He said without a marriage, he and Mr. Davis can't apply for "over a thousand benefits that the federal government offers."

Because civil unions aren't recognized nationwide, some rights also don't exist for those in civil unions when they cross state lines. These rights can include the ability to make medical decisions for an incapacitated partner.

"This has been a long journey. I'm really hoping that the courts can correct this injustice," said Mr. Busch.

## Opposition

Members of the Family Institute of Connecticut, who attended Monday's hearing, said any decision on gay marriage must be made by the legislature, not the courts.

"We hope the court will realize that something this radical should be left to the people, that something this disruptive, divisive and controversial should be left to the people to decide and not handed down from above," said Peter Wolfgang, director of public policy for the institute.

Gov. M. Jodi Rell, who signed the bill creating civil unions in 2005, has said she would veto a gay marriage bill. The court is expected to rule later this year on the case.

Mr. Busch, expressing optimism about the way the arguments had gone, said he hoped the case would make the world his son is growing up in a better place.

"I'm hoping that this will make a difference in the larger scheme of things. We want a world where our son, when he grows up, can marry the person of his dreams, whoever that person is," he said.

—The Associated Press contributed to this story.

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