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Connecticut Supreme Court OKs Same-Sex Marriage

By a 4-3 vote, the Connecticut Supreme Court today overturned the state's prohibition of same-sex marriage, joining Massachusetts and California in extending the institution of marriage beyond the union of one man and one woman. Justice Richard Palmer, writing for the majority, said, "Interpreting our state constitutional provisions in accordance with firmly established equal protection principles leads inevitably to the conclusion that gay persons are entitled to marry the otherwise qualified same sex partner of their choice." The text of the decision and three dissents in the case of *Kerrigan v.*

Commissioner of Public Health is available [at the court's Web site](#).

The court also found that "the state has failed to provide sufficient justification for excluding same-sex couples from the institution of marriage." Eight same-sex couples challenged state law as a violation of their substantive due process and equal protection rights under the Connecticut constitution. The trial court ruled against them, finding that because of the availability of "civil union" status with the same legal rights of marriage, the plaintiffs had not established injury. But the state Supreme Court found that civil union and marriage are "by no means equal... There is no doubt that civil unions enjoy a lesser status in society than marriage."

Paul Smith of Jenner & Block in D.C. applauded the ruling as one more sign that "the solution of civil unions is not a tenable solution." Smith filed a brief in the Connecticut case on behalf of the American Psychological Association. He also argued and won the landmark *Lawrence v. Texas* decision in 2003 striking down laws that criminalize homosexual conduct. The decision is cited by the Connecticut court.

"There has been a sea change in the culture" since then, says Smith. He predicts the Connecticut ruling "won't even be a blip on the radar screen," whereas formerly it would have created controversy especially in a presidential election year. What states are next in the campaign for same-sex marriage? Smith says legislative efforts are underway in New York and New Jersey, and Iowa's Supreme Court will weigh the issue in December.

Posted by Tony Mauro on October 10, 2008 at 01:11 PM in [Other Courts](#) | [Permalink](#)

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