

## Connecticut's Same-Sex Marriage Ruling Draws on California's

Mike McKee  
*The Recorder*  
October 14, 2008

 [Printer-friendly](#)  [Email this Article](#)  [Reprints & Permissions](#)

Gay couples in Connecticut might not realize it, but they owe a debt of gratitude to the California Supreme Court.

In a 4-3 ruling Friday that legalized same-sex marriage in that New England state, the Connecticut Supreme Court relied heavily on the California court's own 5-month-old gay-marriage ruling to reach many of its conclusions.

In fact, the Connecticut court's decision -- which made that state the third in the nation to OK same-sex marriages -- directly named California's high court nine times and separately cited its May 15 ruling in *In re Marriage Cases*, 08 C.D.O.S. 5820, 15 times. Additionally, it referred to the state of California, its constitution and its case law another seven times.

The 85-page opinion, authored by Justice Richard Palmer, also called the California court's decision one of the "most persuasive sister state" precedents in the nation. The Connecticut court majority rejected the reasoning of New York and four other states that have limited marriage to heterosexual couples.

California Chief Justice Ronald George and Justices Joyce Kennard and Carlos Moreno -- who backed same-sex marriage in May's ruling -- declined to comment Friday. Justice Kathryn Mickle Werdegar, who joined them in that decision, would only say through a spokeswoman that the Connecticut court's ruling was "consistent" with articles that illustrate "California is often a leader on issues of significance."

Pro-same-sex marriage organizations cheered the Connecticut ruling.

"This confirms that the California Supreme Court got it exactly right," Evan Wolfson, executive director of the New York-based Freedom to Marry, said Friday. "And even more importantly that the freedom to marry finds no substitute in lesser or other legal mechanisms, such as civil unions or domestic partnerships, that withhold equality and real protection for families."

Shannon Minter, legal director of the San Francisco-based National Center for Lesbian Rights and one of the attorneys who argued for marriage rights in California's high court, said the Connecticut court obviously found California's ruling solid and on point.

### Top Stories From Law.com

#### Legal Technology

▶ [Taming the Court Calendar](#)

#### In-House Counsel

▶ [In-House Counsel Win Battle in War Over Accounting](#)

#### Small Firm Business

▶ [Family Law Attorney Finds Time for Other People's Kids](#)

ADVERTISEMENT

GET OFFICIAL **LIVESTRONG**™ GEAR  
AND SUPPORT THOSE LIVING WITH CANCER.

 **SHOP NOW** 

**LIVESTRONG**™

LANCE ARMSTRONG FOUNDATION

[www.store-laf.org](http://www.store-laf.org)

[lawjobs.com](http://lawjobs.com)

#### TOP JOBS

##### **Air Force Judge Advocate**

United State Air Force  
Texas

##### **Air Force Judge Advocate**

United State Air Force  
New Jersey

[MORE JOBS >>](#)

Ads by Google

## **Stop Your Divorce**

Find out exactly what to say and do to stop your divorce right now.

[www.StopYourDivorce.com](http://www.StopYourDivorce.com)

"There is an enormous amount of research and analysis reflected in [*In re Marriage Cases*]," he added. "You can tell Chief Justice George put an enormous amount of work into it, and I'm absolutely sure that what happened [Friday] will continue to happen."

Mathew Staver, founder and chairman of Florida-based Liberty Counsel -- a supporter of [California Proposition 8](#), which would ban same-sex marriage -- said Friday's ruling was flawed precisely because it tracked the California ruling.

"The California Supreme Court's ruling is based on faulty reasoning," he said, "and Connecticut is even worse because California's history is significantly different from Connecticut. To base reasoning on faulty reasoning makes it unstable."

Staver said the Connecticut decision surprised him because it "does not reflect the will of the people," and he expects a revolt similar to that being waged by Prop 8 backers in California.

In *Kerrigan v. Commissioner of Public Health*, 17716, the majority of the Connecticut Supreme Court agreed with the California Supreme Court's finding that laws discriminating against gays and lesbians must be subjected to a higher level of scrutiny. (The California Supreme Court held that gays and lesbians are a suspect class; the Connecticut court found them to be a "quasi-suspect class.")

"The [California] court emphasized," the Connecticut Supreme Court stated, "that the most important consideration in the determination of a group's entitlement to recognition as a suspect class is whether that group has been subjected to invidious and prejudicial treatment because of a distinguishing characteristic that bears no relation to the individual's ability to perform or contribute to society."

"We agree with the California Supreme Court," it continued, "that 'this rationale clearly applies to statutory classifications that mandate differential treatment on the basis of sexual orientation.'"

The three dissenters barely mentioned the California ruling, but one of them argued that the majorities on both courts erred by concluding that marriage laws had prevented gays from wedding. "Indeed," Justice Peter Zarella wrote, "gay individuals never have been barred from marriage."

Gerald Uelmen, a professor at the Santa Clara University School of Law, said Friday's ruling shows that the California court's equal-protection analysis "will have a great effect and be a very powerful precedent elsewhere."

Gay-rights advocates said the California ruling could very well play a role in the Iowa Supreme Court, where oral arguments on same-sex marriage will be held on Dec. 9.