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Historic ruling on same sex marriage has Madison roots

By: Hannah Vahl, Staff writer 10/21/2008

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MADISON-On the morning of Aug. 23, 2004, seven same-sex couples drove into town and gathered in the parking lot of town hall.

They had met each other only once before, at a lawyer's office in Hartford. One couple at a time, they requested a marriage license.

And one couple at a time, they were denied by Town Clerk Dolly Bean, who provided each couple with a copy of the Opinion of the State Attorney General dated May 17, 2004, which said that state statutes do not allow local officials to issue marriage licenses to same sex couples.

Two days later, the couples filed a complaint in New Haven Superior court which alleged that denying otherwise qualified couples the ability to marry because each wanted to marry another of the same sex violates the equal protection provisions in the Connecticut Constitution.

Bean, who was a named defendant in the complaint but never had to appear in court, declined to comment for this story.

After the couples were all denied, the group disbanded, and they went their separate ways.

But that denial set in motion a series of suits that resulted in Friday's landmark ruling on Kerrigan vs. State which made Connecticut the third state to legalize same sex marriage. The decision cannot be appealed to the U.S. Supreme Court and should go into effect in early November.

Madison Selectwoman Noreen Kokoruda, a Republican, said, "It is what it is, and you've got to obey the law. I think that Gov. Rell said it. Madison, like every other town, will obey (the decision)."

The suit was brought by the Boston-based organization Gay & Lesbian Advocates & Defenders (GLAD), which had sued the state of Massachusetts for denying same sex couples the right to marry. In 2004, they were victorious there.

For their next battle, the organization set their sights southward.

"We had received phone calls for years-since the late 80s, early 90s-from couples wanting to get married," said GLAD Director of Public Affairs Carisa Cunningham.

"Once we won in Massachusetts, we heard from couples all over the place, wanting to get married, including Connecticut. And Connecticut has an excellent constitution that lends itself to equal protection."

Initially seven, later eight couples were found to be plaintiffs. Some had contacted GLAD, and some had called the Connecticut organization Love Makes a Family, and some were found by those two organizations.

The couples lived in different parts of the state, including Wilton, Middletown, Colchester. A central place for them all to meet to apply for marriage licenses was Madison.

"It was a place the couples could all get to," said Cunningham. "But I'm also told that Madison is a lovely place to get married."

Beth Kerrigan, after whom the case is named, recalls being distracted that August day. Her son Fernando was sick, and she brought him along. After she and partner Jody were denied the license, they took Fernando to his doctor, who couldn't see him until that afternoon.

Jane Ellen Martin, known as J.E., remembers that the day took place without much fanfare. Still, for her, the experience of asking for a marriage license with her partner, Denise Howard, was more than just a formality.

"It kind of cemented the (fact) that we really couldn't do this. It hadn't really crossed

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my mind," she said. "You really are being declined just because of who you are, not because of any actual, logical reason." She thought that it wasn't right and at that point became "really happy" that she was involved in the legal case.

Garrett Stack and John Anderson, of Woodbridge, became part of the case after talking to a lawyer at a rally in Hartford.

That day in Madison, said Anderson, "Knowing that we were going to be told no, there wasn't a whole lot of excitement about it. The excitement was that it was the beginning of something very important."

Anderson wanted to marry Stack, he said for a "whole conglomeration of reasons, from the very pragmatic - the legal security, the financial security, the security of going into a hospital and being treated as a couple - to the deep reasons of dignity, respect, and equality."

Stack first knew Anderson was the one at 9:30 p.m., July 6, 1980.

"I know it sounds crazy," said Stack, "But it was love at first sight. I looked into his face and I just said behind that face is a wonderful man."

28 years later, said Stack, Anderson is still the one.

Stack, 61 and Anderson, 65, can both recall a time when there was less acceptance of homosexuality than there is now.

When Anderson would go to a bar in Washington D.C. where there were only men, everyone would stop dancing if the police came in. Stack remembers being a gay college student and going with a friend to a bar called The Pub in New Haven.

The two would go in through the back door, because if anybody saw you going in through the front door, they would know you were gay.

Marriage wasn't even on Stack's radar through the 70s and 80s, even as he would go to wedding after wedding of his friends.

After legislation passed in the state to forbid discrimination based on sexual orientation in 1991, Stack "came out" at work. As a new principal at Franklin Elementary School, he called each teacher into his office and informed him that he was gay. He also told the PTA president.

"It was one of the most freeing experiences. I knew that at least under the law, I could not be fired for simply being gay," he said.

But for Anderson and Stack, being openly homosexual came with a revelation.

"We were out. We couldn't be discriminated against. And then we realized we had nothing to protect us," said Stack. "Under the law we were legal strangers. The only way to protect ourselves was to spend hundreds of dollars together for lawyers to put together documents to give us some of the privileges that married couples enjoy."

When the city of Hartford offered domestic partnerships in 1992, they were the 12th couple to register.

"I think it cost \$5," said Stack. "It carried no weight...But it had an official raised seal. It felt different. We laughed. We said, 'We have papers.'"

The two got a civil union the first day it was legalized. But still it wasn't enough. They wanted marriage.

Stack could never figure out how to articulate being in a civil union.

"We're a union couple?" he asked. "We're civilized? Even if you say that a civil union is like marriage, it's not marriage. It's like marriage. We're this other, second-class status."

J.E. Martin explained, "The legislature, darn them, passed a civil union law. That was the worst. Massachusetts had not fallen off the map (after they legalized same sex marriage), the devil himself had not come into Massachusetts. So why would we bother doing a civil union? If it was really equal, they would have given us marriage." Unfortunately, after both she and her partner were laid off, they had to have a civil union so Martin could add Howard to her benefits package.

With the legalization of civil unions, the arguments had to change. The plaintiffs needed to prove that civil union was unequal to, inferior to, marriage.

And they succeeded. The majority decision on Kerrigan vs. State, released Oct. 10, states, "Although marriage and civil unions do embody the same legal rights under our law, they are by no means 'equal.'... The former is an institution of transcendent historical, cultural and social significance, whereas the latter most surely is not."

That day, as many couples as could come assembled in Hartford to celebrate the decision. For Anderson, a memorable moment that day was seeing 100 UConn students come around the corner with signs to celebrate.

"It was like a shot of adrenaline," he said. "They're the ones that this is for: the next generation, so that they won't have to grow up with the uncertainty that we grew up with."

Zach O'Connor, 18, a freshman at American University in Washington, D.C., grew up in Madison. He is also gay.

He says that he got a text message in math class telling him that the couples had won. He had to run out of the classroom. "I almost started to cry," he said.

"It's a great thing to be able to say I can get married in my home state," he said.

"I'm happy that I now have the ability, and the right, to do that."

Martin was happy about the ruling, but she also feels scared. "I'm very nervous about these ballot initiatives," she said, referring to the question of holding a state

constitutional convention, which will be on the Nov. 4 ballot.

"It's very scary to think it could all be lost," she added.

Family Institute of Connecticut Executive Director Peter Wolfgang said he was "outraged but not surprised" by the ruling in Kerrigan vs. State. His organization, which is against same sex marriage, is pushing to hold a state constitution convention so that direct initiatives, such as letting residents vote on whether marriage should only be between a man and a woman, would be allowable in the state.

He sees same sex marriage as an attack on religious liberty and parental rights, as well as democracy, since the decision was made by four judges.

"All we have to do is look at other jurisdictions to understand why marriage should not be tinkered with," said Wolfgang, pointing out that Catholic churches have stopped providing adoption services rather than comply with state law that allows gay and lesbian couples to adopt children, something that Wolfgang sees as "permanent and obligatory motherlessness and fatherlessness."

Three of the seven Connecticut Supreme Court justices also disagreed with the decision. Justice Peter Zarella, in his dissent, wrote, "The ancient definition of marriage as the union of one man and one woman has its basis in biology, not bigotry. If the state no longer has an interest in the regulation of procreation, then that is a decision for the legislature or the people of the state and not this court." Kerrigan was reassured by the decision. "You go through life not knowing something is weighing heavily on your heart," she said. "The relief was amazing. Winning feels fabulous."

Stack said, "Marriage is more than a bundle of rights and responsibilities. It goes right to the core of who you are. When you love someone, you marry them. That's what people do. The court understands that."

Stack and Anderson are planning a summer wedding in Woodbridge (they did consider getting married in Madison, where they originally applied for a marriage license-Stack has family in town, and learned to swim at the beach in Madison, he said, but they decided against it).

The two will probably tie the knot at a chapel.

"I never thought of a church wedding," said Stack. He recently sent off an email to a local banquet hall to set up a meeting, and hopes to make new traditions for same sex unions. No garter, no bouquet throwing for him and Anderson. And no feeding each other cake, either. But there will be gifts.

"We're going to register for Home Depot," he said. "I want a hammer drill."

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