



Conn. Ban On Gay Marriage Reversed

State's High Court Issues 4-3 Ruling

By William Branigin
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The [Connecticut Supreme Court](#) overturned a state ban on same-sex marriage yesterday, ruling that it "discriminates on the basis of sexual orientation" in violation of the state constitution.

The 4 to 3 ruling made Connecticut the nation's third state to legalize gay marriage through the courts, joining Massachusetts and California.

While the case was pending in a trial court, the Connecticut legislature passed a law in 2005 that permitted same-sex couples to enter into civil unions that grant essentially the same rights available to married couples. But the law defined marriage as "the union of one man and one woman," and the focus of the case shifted to whether this stipulation was permissible under the state constitution.

"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," Justice Richard N. Palmer wrote in the majority opinion. "To decide otherwise would require us to apply one set of constitutional principles to gay persons and another to all others."

Under Connecticut's constitution, therefore, "same sex couples cannot be denied the freedom to marry," Palmer wrote.

The plaintiffs, eight gay couples who were refused marriage licenses, did not make any claims under the U.S. Constitution. Several of the couples "have been together for more than 20 years, and many of them have raised or are raising children together," Palmer noted.

In dissent, three justices said the plaintiffs' equal-protection rights had not been violated. One justice, Peter T. Zarella, argued that the real purpose of marriage laws is to regulate "procreative conduct" and that same-sex couples thus differ from people in traditional marriages.

"The ancient definition of marriage as the union of one man and one woman has its basis in biology, not bigotry," Zarella wrote. "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."

Plaintiffs said they were thrilled by the decision.

"This is just an extraordinary day," said Elizabeth Kerrigan, who joined the suit with her partner, Jody Mock. "We are overjoyed to tell our twin boys that we will be married, just like their friends' parents."

[President Bush](#)'s chief domestic policy adviser, Karl Zinsmeister, said it was "unfortunate that activist judges continue to seek to redefine marriage by court order -- without regard for the will of the people." And the Family Institute of Connecticut, which opposes gay marriage, said the ruling strikes at the right of citizens to govern themselves.

Connecticut Gov. [M. Jodi Reil](#) (R) said she disagreed with the ruling but would not fight it. While she indicated most state residents also disapprove, "I am also firmly convinced that attempts to reverse this decision -- either legislatively or by amending the state constitution -- will not meet with success," she said.

Same-sex couples from other states can get married in Connecticut, but recognition of the marriages in their home states depends on the laws in those states, according to Carisa Cunningham, a spokeswoman for Gay and Lesbian Advocates and Defenders (GLAD), which represented the plaintiffs in the lawsuit. She said same-sex couples can expect to obtain marriage licenses under the decision starting next month.

The case began in August 2004 after eight same-sex couples were denied marriage licenses by the town of Madison. They filed suit, asking the court to order Madison's acting town clerk to issue marriage licenses and the state Department of Public Health to register the marriages.

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