

Colorado court refuses to enact anti-gay measure



NATIONAL

DENVER (AP) — The Colorado Supreme Court refused Monday to put into force the gay rights amendment that triggered a nationwide boycott of Colorado, saying the law probably violates the U.S. Constitution.

An actual ruling on the amendment's constitutionality will come when a civil lawsuit goes to trial in October.

In the meantime, the state Supreme Court said in a 6-1 decision that it found no reason to lift an injunction preventing Amendment 2 from taking effect.

The court said the initiative "to a reasonable probability" violates the U.S. Constitution's 14th Amendment, which forbids states from denying equal protection under the laws to anyone.

Amendment 2, approved Nov. 4 by 53 percent of Colorado's voters, would ban state and local laws prohibiting discrimination based on sexual orientation. It also would strike down gay-rights ordinances on the books in Aspen, Boulder and Denver.

The court acknowledged that Amend-

ment 2 was passed by a majority, but said: "One's right to life, liberty and property ... and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

The decision was hailed by civil rights advocates while Amendment 2 supporters said they remained optimistic the measure ultimately would become law.

A Denver legal expert said the decision means Amendment 2 is unlikely to pass constitutional muster when the lawsuit challenging the initiative goes to trial.

"It looks as though the Colorado courts are ready to strike it down. The question is, will the (U.S.) Supreme Court take the case," said John Reese, a University of Denver law professor whose specialty is constitutional law.

While Amendment 2 has never taken effect, it has become a rallying ground for gay rights activists and led to a nationwide boycott targeting Colorado. While the boycott cost the state millions of dollars in convention business, it so far has not appreciably affected tourism, officials say.

The lawsuit challenging the amendment is to be heard by Denver District Judge Jeffrey Bayless, who issued the injunction

Jan. 15. It was filed by nine individuals and the three cities that had gay-rights ordinances.

The state Supreme Court said Amendment 2 alters the political process so that a "targeted class" is denied access to traditional protections from discrimination.

"Amendment 2 singles out and prohibits this class of persons from seeking governmental action favorable to it and thus, from participating equally in the political process," the court said.

"No other identifiable group faces such a burden — no other group's ability to participate in the political process is restricted and encumbered in a like manner," the ruling said.

The author of Amendment 2, Will Perkins of Colorado Springs, one of the founders of Colorado for Family Values, said if the amendment is voided at the October trial, "we'll have to wait and see when it gets to the U.S. Supreme Court."

Any decision to appeal an adverse ruling would be up to the state.

Colorado Attorney General Gale Norton, who argued on behalf of the state to overturn the injunction, said she was debating whether to appeal the opinion to the U.S.

Supreme Court or devote her office's energies to the October trial.

Norton said it was noteworthy that the court "did not find that the people of Colorado acted out of hatred."

Gov. Roy Romer said Monday's decision should be appealed to the U.S. Supreme Court because the ruling was based on constitutional interpretations.

James Joy, executive director of the American Civil Liberties Union in Colorado, hailed Monday's ruling, but noted the pending trial and possible appeal mean the issue is far from dead.

"We believe this is a victory for all people in Colorado and for our system of government. We must be prepared to persist," he said.

The ruling was also praised by Suzanne Goldberg, a New York-based staff attorney for Lambda Legal Defense and Education Fund, a national gay and lesbian civil rights group.

"It's an important affirmation that the Constitution protects the civil rights of all people and that our democratic system will not tolerate a two-class citizenship, which is what Amendment 2 attempts to impose on Colorado," she said.

Post office plea made

WASHINGTON (AP) — Prosecutors secured a key guilty plea Monday in their probe of the House Post Office, and court documents suggested that Rep. Dan Rostenkowski, one of the most powerful members of Congress, may have been a recipient of embezzled funds in the case.

Former House Postmaster Robert V. Rota pleaded guilty to conspiracy and embezzlement charges for helping one former lawmaker and one current member of Congress obtain cash illegally for personal use, by submitting official House vouchers.

Papers released in the case said Rota, in the 1970s and 1980s, aided and abetted a "Congressman A and Congressman B" in "willfully and knowingly" embezzling money that was converted to the lawmakers' personal use.

One embezzlement count says Rota "aided and abetted Congressman A in willfully and knowingly embezzling and converting to Congressman A's own use" the post office funds.

The same language is used for Congressman B.

Rostenkowski's office had no immediate comment.

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