

national

NEW YORK

Loss in New York

The New York Appellate Division, First Department, has overturned a lower court ruling that found that barring same-sex couples from marriage violates the state's constitution.

"While we believe the trial court got it right, we anticipated that this case would be heard before the state's high court," said Susan Sommer, senior counsel at Lambda Legal and lead attorney on the case. "This is a question of basic constitutional rights for same-sex couples and their families, and history shows that fairness under the law will eventually prevail."

The decision says limiting marriage to people of different sexes is not unconstitutional. A dissenting opinion by Justice David B. Saxe says that denying the rights and benefits of marriage to the state's gay and lesbian "residents is contrary to the basic principles underlying our constitution, our legal system and our concepts of liberty and justice, and perpetuates a deeply ingrained form of legalized discrimination."

Lambda filed *Hernandez vs. Robles* in March 2004 seeking marriage licenses for same-sex couples in New York, arguing that denying them marriage violates the state constitution's guarantees of equality, liberty and privacy for all. The trial court issued its favorable ruling in February, and New York City decided to appeal. The mid-level court heard oral arguments in September and handed down its decision Dec. 8. Lambda will now appeal that decision to the New York Court of Appeal, the state's highest court.

OKLAHOMA

Lawsuit Challenges Homophobic Adoption Law

Lambda Legal challenged one of the harshest anti-gay measures in the country Dec. 2. Passed in April 2004, the amendment to the Oklahoma adoption code ensures that the state will not recognize "an adoption by more than one individual of the same sex from any other state or foreign jurisdiction."



ProgressNowAction.org organized an anti-Bush protest outside the Brown Palace in Denver. Demonstrators opposed to the Iraq war were planning a march from the Capitol to the hotel nearby.

Lambda asked a federal judge in Oklahoma's western district to strike the amendment on several constitutional grounds. Not only does the provision ignore the mandate that all states give full faith and credit to the judgments of sister states, lawyers argue, but it contravenes the equal protection and due process rights of adoptive parents and their children, and burdens interstate travel.

An adoption, once given the force of law by a court in any jurisdiction, is considered sacrosanct. Adoptive parents assume a legal status no different from that enjoyed by biological parents, and no less permanent.

More than half the states allow gay partners to adopt each other's biological children, and several allow same-sex couples to adopt jointly. Lambda's three plaintiff families belong in both these categories, PlanetOut.com reported.

Oklahoma's House Media Division explained that passing the ban on recognizing gay adoptive families would "protect Oklahoma children from being targeted for adoption by gay couples across the nation" and "ensure that children are raised in traditional family environments." Far from amounting to compelling state interests, Lambda says, these rationales are flat expressions of anti-gay prejudice and fail to meet the lowest legal standards.

INDIANA

Black Ministers Object to Proposed Gay Rights Law

Robert Ferguson, president of Indiana Black Pride, says his group is searching for at least one leader of a black church in the state who supports gay rights.

He wouldn't have found one among a group of black ministers who went to the Indianapolis City-County Building the week of Dec. 5 to pray in protest of a pending gay rights law. "We believe the Bible says that homosexuality is abomination, that it is a sin. It is not a sin to be born black," said one minister who objected to the gay rights movement equating itself with the black civil rights movement of the 1950s and '60s.

COLORADO

Bush Supports Author of Marriage Protection Amendment

President Bush stumped Nov. 29 in Denver at a \$1,000-a-plate fund-raiser for U.S. Rep. Marilyn Musgrave, R-Colo., author of the Federal Marriage Amendment.

The two-term lawmaker is considered by some GOP analysts to be one of the most vulnerable incumbents to run for office next year. She narrowly won her race in her heavily Republican district in 2004.

Bush praised Musgrave's stance on the amendment: "I'm also proud of the fact that she stands up for values that she thinks important. She's a strong supporter of the sanctity of marriage—who supported a constitutional amendment to make sure that activist judges do not redefine traditional marriage.... And the people of this district ought to send her back to Washington, D.C., because she shares the same values as most people in Colorado."

Outside the luncheon, about 500 demonstrators beat pots and pans, blew whistles and yelled.

Musgrave first introduced the amendment in 2003. It failed last year, along with a similar version in the Senate.

The 2005 reincarnation of the bill, now known as the Marriage Protection Amendment, was approved last month by a Senate subcommittee. 10

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