



NATIONAL CENTER FOR LESBIAN RIGHTS



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Lesbian and Gay Couples Win Freedom to Marry in California

California Supreme Court Issues Historic Ruling

SAN FRANCISCO — The California Supreme Court ruled today that the state can no longer exclude same-sex couples from civil marriage.

In a 4-3 decision, drafted by Chief Justice Ronald George, the court ruled: “In light of the fundamental nature of the substantive rights embodied in the right to marry — and their central importance to an individual’s opportunity to live a happy, meaningful, and satisfying life as a full member of society — the California Constitution properly must be interpreted to guarantee this basic civil right to all individuals and couples, without regard to their sexual orientation.”

The court also noted: “Furthermore, in contrast to earlier times, our state now recognizes that an individual’s capacity to establish a loving and long-term committed relationship with another person and responsibly to care for and raise children does not depend upon the individual’s sexual orientation, and, more generally, that an individual’s sexual orientation — like a person’s race or gender — does not constitute a legitimate basis upon which to deny or withhold legal rights. We therefore conclude that in view of the substance and significance of the fundamental constitutional right to form a family relationship, the California Constitution properly must be interpreted to guarantee this basic civil right to all Californians, whether gay or heterosexual, and to same-sex couples as well as to opposite-sex couples.”

“This is a historic and landmark day for those who value fairness and opportunity,” said Shannon Price Minter, legal director of the National Center for Lesbian Rights, who argued the case on behalf of 14 same-sex couples and two organizations, Equality California and Our Family Coalition. “The court’s decision today upheld the highest ideals of equality that are embodied in the California Constitution.”

“There is no more important and deeply personal decision than whether to take on the commitment of marriage,” he added. “With today’s ruling, the California Supreme Court declared that lesbians and gay men have an equal right to make that cherished commitment.”

“We have waited more than 50 years for the opportunity to marry,” said Phyllis Lyon, on behalf of herself and Del Martin, who are plaintiffs in the case. Lyon, 83, and Martin, 87, have been together 56 years. “We are thrilled that this day has finally come.”

Lawsuits challenging the marriage ban were filed in March, 2004. Along with the National Center for Lesbian Rights, the couples are represented by Lambda Legal, the American Civil Liberties Union, Heller Ehrman LLP and the Law Office of David C. Codell. The City and County of San Francisco likewise filed its own challenge to the marriage

laws, represented by the office of City Attorney Dennis Herrera. The cases, along with four others, were consolidated into one appeal, *In re Marriage Cases*.

The court ruled that lesbian and gay couples are entitled to the same fundamental right to marry as heterosexual couples as protected by the California constitution. The decision explicitly strikes down Proposition 22, a voter-passed initiative that passed in 2000 that sought to limit marriage to only between a man and woman. Under California rules of procedure, the decision can not go into effect for at least 30 days.

“We’re tremendously gratified that the Court today has fulfilled its traditional duty,” said Jennifer Pizer, Senior Counsel for Lambda Legal. “Like the 1948 decision recognizing the right of interracial couples to marry, this ruling keeps a promise that every Californian should hold dear — the California Constitution embraces everyone equally. Each of us depends on the Supreme Court to enforce our basic rights to be free and equal under law — no more and no less than our neighbors and friends. Enforcement was essential for mixed-race families in the 1940s and for women in the 1970s, and it’s essential for gay men and lesbians now. California’s Constitution safeguards all of us.”

“The Court did its job today, ensuring that all Californians are treated fairly and equally under the law,” said Kevin Keenan, Executive Director of the ACLU of San Diego and Imperial Counties. “Today’s ruling marks a defining moment in our state and nation’s history by honoring love, equality, and opportunity.”

Currently, lesbian and gay couples may legally marry in Massachusetts, Canada, Spain, the Netherlands, Belgium, and South Africa. In 2007, an Iowa trial court held that Iowa’s marriage ban violates the Iowa Constitution. That case is now before the Iowa Supreme Court. A lawsuit challenging the exclusion of same-sex couples from marriage in Connecticut is also pending before the Connecticut Supreme Court.

In anticipation of today’s ruling, right-wing organizations are attempting to amend the California Constitution to openly discriminate against lesbian and gay couples. Groups funded by out-of-state organizations have submitted signatures to place an initiative on the November ballot that would ask voters to alter the constitution by denying gay and lesbian couples the freedom to marry, which the court upheld today. The California secretary of state has not yet determined if the discriminatory initiative has qualified for the November ballot.

“The California Constitution was written to protect the freedoms and equality of all people, creating a place where every person can realize his or her hopes and dreams,” said Equality California Executive Director Geoff Kors. “That is the California we choose to live in — a state that ensures dignity and respect for its diverse communities and families. We are confident that Californians will respect the court’s ruling for fairness and opportunity and affirm that lesbian and gay Californians deserve full equality under the law.”

In an interview on April 11, Gov. Schwarzenegger stated that an initiative to amend the California Constitution to ban gay and lesbian couples from marriage was “a waste of time,” adding “I will always be there to fight against that. It will never happen.”

Kors added, “I truly believe that Californians are ready to move past the type of politics that seeks to divide us by our differences. Most Californians work hard to treat others fairly, and they believe their neighbors should have the same opportunity to realize their hopes and dreams.”

The case is among the most heavily briefed cases in the history of the California Supreme Court. More than 20 counties and municipalities filed a friend-of-the court brief in support of marriage for same-sex couples, including the most populous cities in California: Los Angeles, San Diego, San Jose, Long Beach, Sacramento and Oakland.

In addition, more than 250 religious and civil rights leaders and organizations, including the California NAACP, Mexican American Legal Defense and Educational Fund, California Council of Churches, Asian Pacific American Legal Center and National Black Justice Coalition, filed briefs supporting same-sex couples seeking the right to marry. Numerous legal and bar associations, including the Los Angeles County Bar Association, also registered their support, as well as many of the state’s leading constitutional law scholars and family law professors.

To read the court’s decision, visit <http://courtinfo.ca.gov/opinions/documents/S147999.PDF>.

For more information about *In re Marriage Cases*, visit www.nclrights.org.

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The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual and transgender people and their families through litigation, public policy advocacy and public education. NCLR is lead counsel in *In re Marriage Cases*. www.nclrights.org

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work. www.lambdalegal.org

The American Civil Liberties Union is America's foremost advocate of individual rights. It fights discrimination and moves public opinion on LGBT rights through the courts, legislatures and public education. www.aclu.org

Founded in 1998, **Equality California** celebrates its 10th anniversary in 2008, commemorating a decade of building a state of equality in California. EQCA is a nonprofit, nonpartisan, grassroots-based, statewide advocacy organization whose mission is to achieve equality and civil rights of all lesbian, gay, bisexual and transgender (LGBT) Californians. www.eqca.org

Our Family Coalition promotes the rights and well-being of Bay Area lesbian, gay, bisexual and transgender families with children and prospective parents through education, advocacy, social networking and grassroots community organizing. www.ourfamily.org