



EJ Montini

First-class people; second-class citizens

They look like us.

They have jobs like us. Drive cars like us. They live in our neighborhoods. They go to the same grocery stores, restaurants and movie theaters. Their kids attend the same schools as our kids. They work hard. They pay taxes. They vote.

They're first-class people, and they're wondering why we keep treating them like second-class citizens.

“Yes, that’s the heart of it,” said attorney Shawn Aiken. “This is discrimination, and that’s why you take the issue to court.”

Last week four same-sex couples, two of them with children, filed a class-action lawsuit challenging Arizona’s ban on same-sex marriage.

“I haven’t been much involved in this issue,” Aiken told me. “But two of the plaintiffs in the case Joe (Connolly) and Terry (Pochert) are members of the same church as I am. They came to me one day and we were talking about why this still goes on. It needs to stop. Our kids are going to look back on these days and wonder what took us so long to come around. It’s crazy.”

The complaint filed by Aiken mirrors one filed against Utah’s ban on same-sex marriage. Last year, the U.S. Supreme Court said it was unconstitutional to deny federal benefits to legally married same-sex couples. Given that, how can a state continue to discriminate against them?

And worse, why would it want to?

One of the couples in the Arizona lawsuit is Suzanne Cummins and Holly Mitchell. They’ve been together since 2007. Several years ago they went through the process to become licenses foster parents.

Since then, they have adopted two children.

But because the legislature in Arizona only permits a “husband and wife” to jointly adopt, the sole legal parent is Suzanne.

“It’s a ridiculous situation,” Aiken said. “Because of Arizona’s marriage ban only one parent in this family can do all the things a couple needs to do, things that have to do with illness and other important issues. Here are two people that Arizona trusts to raise the very children who are most in need of a family and then the state turns around and denies them to right to do so as a married couple.”

Another of the couples in the lawsuit, Mason Hite and Christopher Devine, also first became licensed foster parents and now are raising an adopted child.

Over the years the state Legislature has tried (and sometimes succeeded) in passing laws that make it more difficult for gay men and women to adopt. They’ve done so at a time when Arizona has more than 14,000 children living in foster care.

Many gay couples take in children with ongoing medical needs or health conditions. That is the case with both couples in the lawsuit.

“Given Arizona’s law against same-sex marriage these parents don’t have access to some of the resources that would benefit their children,” Aiken said.

He added, “Some people also say this is a religious thing, but it’s not. No church will ever be required to perform a ceremony for a same-sex couple. But they should have the same rights as any other couple to have a legally-binding civil ceremony, or one in a church that welcomes them. That’s not just good for them. It would be good for all of us.”

Activists in Arizona are hoping to overturn the state’s same-sex marriage ban by way of a voter initiative, perhaps in 2016.

The current marriage ban was made a constitutional amendment by voters in 2008.

For that reason, people like Cathi Herrod, president of the conservative advocacy group the Center for Arizona Policy, want the courts to stay out of the argument.

Herrod told *The Arizona Republic*, “We would hope the courts would defer to the Arizona voters that clearly defined marriage as only being between one man and one woman.”

Courts exist to protect a citizen’s rights, however.

Still, rather than ask Arizona voters or the courts if marriage should be legal for same-sex couples, why don’t we simply ask the kids they’re raising?