

Blog For Arizona

[Bryan](#)

[AZBlueMeanie](#)

[Safier](#)

[Powers-Hannley](#)

[McDermott](#)

[Lord](#)

[Reiner](#)

[Greene](#)

[Prezelski](#)

[Gratehouse](#)



Marriage Equality in the Courts - now includes Arizona

Posted by AzBlueMeanie:

On Monday, the U.S. Supreme Court issued a stay order in the Utah marriage equality case, pending the appeal in the Tenth Circuit Court of Appeals which has ordered a expedited briefing schedule. Lyle Denniston at SCOTUSblog.com reports, [Court stops Utah gay marriages \(UPDATED\)](#):

The Supreme Court on Monday morning put on hold a federal judge's decision striking down Utah's ban on same-sex marriage, thus stopping a wave of such marriages across the state. The Court's order reinstates the state ban and will keep it intact until after a federal appeals court has ruled on it.

The order appeared to have the support of the full Court, since there were no noted dissents. The ruling can be interpreted as an indication that the Court wants to have further exploration in lower courts of the basic constitutional question of state power to limit marriage to a man and a woman. Had it refused the state's request for delay, that would have left at least the impression that the Court was comfortable allowing same-sex marriages to go forward in the thirty-three states where they are still not permitted by state law.

The order, however, cannot be interpreted as a dependable indication of how the Court will rule on the issue when it finally decides to do so directly.

* * *

As a result of the new order, the U.S. Court of Appeals for the Tenth Circuit, based in Denver, will go forward with an expedited review of Judge Shelby's decision. **The appeals court has ordered briefing to begin on January 27 and to be completed by February 25. It has indicated it is not likely to grant any extensions of time to file those documents. It has not yet set a hearing date.**

With the Justices' order in the case, it now appears almost certain that the question of state power to bar same-sex marriages will not be before the Justices during the current Term. A case on that issue would have to be granted this month to be reviewed before the Court is expected to finish this Term in late June.

The Tenth Circuit Court of Appeals is now on a similar briefing schedule as the Ninth Circuit Court of Appeals in hearing and deciding the constitutionality of state bans on same-sex marriages in the wake of the U.S. Supreme Court decisions last year. As Lyle Denniston notes, the U.S. Supreme Court will not hear the appeals from the Ninth and Tenth Circuit Courts of Appeal until after these cases are decided, in its next Term in 2014-2015.

In other news, Arizona has now joined 16 other states with lawsuits in federal courts challenging state bans on same-sex marriage. The *Arizona Republic* reports, [Suit filed to allow same-sex marriages in Arizona](#):

Four Arizona same-sex couples are challenging Arizona's definition of marriage as between only one man and one woman.

Their federal class-action lawsuit echoes arguments used in a challenge to Utah's ban on same-sex marriage. The Utah case was thrown into legal limbo Monday when the U.S. Supreme Court halted same-sex marriages in the state while the Denver-based 10th U.S. Circuit Court of Appeals considers the arguments.

"We are asking for relief on behalf of all married and unmarried same-sex couples in Arizona," said attorney Shawn Aiken. "Now is the time to take up this issue."

The couples in the Arizona case are: Joseph Connolly and Terrel Pochert, a Pinal County couple that has been together 18 years and was legally married in California in 2008; Suzanne Cummins and Holly Mitchell, a Maricopa County couple that has been together for seven years and have two children adopted through the state's foster-care system; Clark Rowley and David Chaney, a Maricopa County couple that has been together for five years; and Mason Hite and Christopher Devine, a Maricopa County couple that has been together for 11 years, legally married in California in 2008 and have a child adopted through the state's foster-care system.

Their complaint argues that the federal courts must declare unconstitutional Arizona's definition of marriage based on the Supreme Court ruling last year in the *United States vs. Windsor* case that deemed unconstitutional the denial of federal benefits to legally married same-sex couples.

"We're saying, 'Look, follow that rationale and make the same declaration as to the law in Arizona,'" Aiken said. "It's that simple."

Under that ruling, same-sex couples who married legally in other states and live in Arizona now have varying access to federal benefits, but the state still does not recognize their marriages.

Aiken said the Arizona case is one of 25 filed in 16 states challenging laws that restrict same-sex couples from marrying.

Arizona is in the Ninth Circuit, so whatever the decision is in the Nevada marriage equality case, *Sevcik et al. v. Sandoval* et al., will impact the case in the U.S. District Court of Arizona. The final determination will come from the U.S. Supreme Court, likely in 2015.

[Why Marriage Matters Arizona](#) is conducting a public education campaign in advance of a planned citizens initiative for marriage equality in 2016.

[AZ BlueMeanie](#) on January 07, 2014 in [AZBlueMeanie](#), [Ballot Referendas and Initiatives](#), [Civil Rights](#), [Constitution](#), [Courts](#) | [Permalink](#) [ShareThis](#)
[Tweet This!](#) | [Digg This](#)

Comments

Comments on this post are closed.

POWERED BY  TypePad